

CHAPTER 5

RESERVATION PROGRAMS, SERVICES AND FACILITIES

Chapter 5 of this report examines Reservation programs, services and facilities in 10 areas: (1) housing, (2) utilities, (3) law and order, (4) fire protection, (5) health, (6) education, (7) social services, (8) employment and job training, (9) recreation, and (10) transportation. A final section evaluates the adequacy of the programs, services and facilities in meeting the Reservation's needs and their vulnerability to disruption by off-Reservation development.

I. Housing.

A. Housing Availability.

Housing Stock. There is a severe housing shortage on the Reservation. We estimate that there are approximately 1,200 housing units on the Reservation to serve an estimated Reservation population of about 5,000. See Chapter 3. The number of housing units on the Reservation is seriously inadequate to meet the existing demand for housing on the Reservation. As a consequence, many employed Indian families cannot live on the Reservation near their friends and family due to the shortage of available housing. Some Tribal members must commute up to 45 miles per day to their jobs on the Reservation. Many other families live with relatives in Reservation housing. Due to the housing shortage, most Reservation housing is overcrowded. In some instances, three or four families live in a single home. Housing overcrowding leads to family conflict and social tension and causes the existing housing stock to deteriorate faster than normal. (NCHA, 2001:9).

Housing on the Reservation falls into four basic categories that are discussed below: (1) public housing managed by the Northern Cheyenne Housing Authority ("NCHA"); (2) employee housing; (3) private housing; and (4) mobile homes.

Public Housing. Of the total estimated Reservation housing stock of 1200 units, approximately 800 homes are public housing managed by the NCHA. (Tall Bull, 1995). These 800 units fall into three categories: "mutual self-help" (MSH) housing; low-income rental housing; and housing built under the Native American Housing Assistance and Self Determination Act of 1996 ("NAHASDA").

Mutual self-help is a program authorized under the 1937 Housing Act in which a homeowner acquires equity in the home by making rent payments to the Housing Authority under a "rent to own" agreement. Prospective homeowners sign land leases with the Tribe for 25 years with an option for an additional 25 years. Although a payment schedule specifies the minimum monthly rent which would amortize the cost of the home over a 25 year period, it is possible for residents to accelerate the payment of principal thereby allowing full ownership of the home in less than 25 years. Initially, the program required

that the prospective homeowner contribute labor toward the construction of the home. In later years, the homes were constructed primarily or entirely by contractors. The Housing Authority currently manages 515 MSH units. Approximately, 70 MSH houses have been conveyed to tenants. (Feeney, 1986:6-2, 6-3; NCHA, 2001:28).

The second type of public housing managed by the Housing Authority is low-income rental housing. This type of housing is owned by the Housing Authority which provides subsidized rentals to low-income Indian tenants. Rental payments are set according to income. (Feeney, 1986:6-3). The NCHA currently manages 285 units of low income rental housing on the Reservation. (NCHA, 2001:28).

Under NAHASDA, a Tribal Housing Authority can apply for a block grant which can be used for a range of affordable housing activities for low-income families as set out in an approved Indian housing plan, including: (1) modernization and operation of the existing MSH and low-income housing stock; (2) the acquisition, construction, reconstruction or rehabilitation of affordable housing; (3) the provision of housing-related services; (4) the provision of management services for Tribal housing projects; and (5) crime prevention and safety activities. 25 U.S.C. § 4101 et seq. Since the advent of the NAHASDA program, the Tribe has built or acquired 55 housing units, including 27 surplus homes acquired from the United States Air Force (installed as low-income rentals), and 28 modular homes (managed as lease-purchase housing similar to the former MSH program). Ten additional modular homes are planned for installation in 2002. (Tall Bull, 1995; Simpson, 1-23-2002).

Much of the stock of public housing on the Reservation was built between 1967 and 1985. Between 1967 and 1985, the NCHA constructed 641 units of MSH and low income rental housing. (Feeney, 1986). In the years since 1985, the NCHA has been able to construct or acquire only 201 additional units despite substantial growth in the Reservation population. (Tall Bull, 1995; Simpson, 1-23-2002).

Employee Housing. Due to the lack of available housing on the Reservation, a number of public agencies on the Reservation have constructed housing for their employees and provide this housing to their staff as a fringe benefit. Existing employee housing units include: 20 units of employee housing owned by the Lane Deer School District, 15 units managed by the Busby School, 34 units managed by the Indian Health Service, 25 units managed by the BIA, and 11 owned by Chief Dull Knife College. (Feeney, 1986:6-4; Littlewolf-Millegan, 1-10-2002; White, 1-08-2002; Simpson, 1-23-2002).

Private Housing. In addition to the approximately 800 units of public housing, there are about 300 units of privately owned housing on the Reservation. About half of these units are called "Judgment Fund" homes which were constructed by BIA for individual Tribal members in the early 1960s using funds awarded to the Tribe by the Indian Claims Commission. The remainder of the private housing stock includes housing conveyed by the Housing Authority to tenants under the MSH program, and approximately 46 homes on the Reservation that were built using private financing or without financing. This includes the houses associated with ranches in the outlying districts and traditional log

cabins built by Tribal members. (BIA Housing Improvement Program, 1989)

Opportunities for new construction of private housing are limited even for Tribal members who hold the kind of steady, good-paying jobs that would make them qualified to be homeowners in an off-Reservation community. Because trust land cannot be pledged as collateral for a mortgage, it is very difficult for Tribal members to secure credit to finance the construction of new homes or the substantial renovation of existing homes. Another problem is that homes on the Reservation rarely appreciate in value due to the lack of available financing for prospective purchasers. Hence, the equity invested by Reservation homeowners in their homes does not appreciate. Mortgage and financing assistance programs are needed to assist Tribal members who have the resources. First Interstate Bank of Montana recently opened a branch in Lama Deer and the Housing Authority plans to work closely with the bank to secure private financing for qualified individuals. (NCHA, 2001:9, 14; Rodriguez, 1-23-2002).

Mobile Homes. The number of trailers and mobile homes on the Reservation is unknown. There are two established trailer courts on the Reservation. The largest, the Burns trailer court is located on trust land in Lama Deer and has currently about ten units parked on site. There is reported to be space for a total of 30 trailers at the Burns site. The Stenis trailer court currently has about three trailers parked on-site although there is apparently space available for more. Short-term occupancy rates were substantially higher during peak construction periods at Colstrip in the early 1980s. (Feeney, 1986:6-4; Foote, 1-23-2002).

B. Housing Condition.

Overall, the existing housing stock on the Reservation is in very poor condition. Most of the public housing on the Reservation was built during the 1970s and early 1980s and was poorly constructed. Shoddy construction is worsened by the wear and tear of the overcrowding caused by the overall Reservation housing shortage. Approximately two thirds of the 515 units of mutual self-help housing (347 units) have been found to need substantial rehabilitation. Similarly, the Housing Authority has determined that 156 (or 55 percent) of the 285 low-income rental units it manages are in need of rehabilitation. Another 20 units owned by the Housing Authority have been abandoned and are in need of full rehabilitation and reassignment. Many units need complete renovation due to settling or cracking foundations resulting from deficiencies in original construction. In addition, many septic tanks and drainfields are not functioning properly or have outlived their useful life. Asbestos has been found in a number of mutual aid homes that were built during the 1980s and requires remediation. (NCHA, 2001:28; Simpson, 1-23-2002; Rodriguez, 1-23-2002).

Most private homes on the Reservation are also substandard. Most of the 148 "Judgment Fund" homes built by the BIA on the Reservation have only one room, no foundation and many lack indoor plumbing. (Rising Sun, 1-23-2002). A housing inventory prepared approximately ten years ago by the Tribe's Housing Improvement Program found that 191 of the 213 units of private housing on the Reservation were in substandard

condition. Of these, 171 homes needed renovation and 20 needed replacement. (BIA Housing Improvement Program, 1989). If these figures are combined with the 347 mutual help homes and 156 low-income rental homes found to need renovation in the Housing Authority's 2001 Indian housing plan, one can conclude that as many as 694 homes out of a total housing Reservation stock of about 1200 units are in inadequate condition and need replacement or renovation. (NCHA, 2001:28).

Data from the Tongue River Electrical Cooperative indicates that there are 1008 residential and rural electrical hookups on the Northern Cheyenne Reservation. Even assuming that some housing units have unauthorized connections to the electrical grid or their own source of electrical power, this data indicates that a significant percentage of housing units on the Northern Cheyenne Reservation (> 10 percent) do not have regular electrical service. (Tongue River Electrical Cooperative, 2002).

C. Housing Programs.

The Tribe operates two programs which are intended to address the housing situation on the Reservation. The Tribe operates a Housing Authority which is funded by the United States Housing and Urban Development ("HUD") under the NAHASDA program. The Housing Authority manages all public housing on the Reservation and is responsible for new public housing construction and renovation projects. A second program, the Housing Improvement Program ("HIP") provides funding for the renovation of private homes on the Reservation. Funding for either of these housing programs is inadequate to meet the need for renovation and replacement of existing substandard housing units, much less to alleviate the tremendous housing shortage which has driven Tribal members into overcrowded housing conditions or off the Reservation entirely.

Housing Authority. The Northern Cheyenne Housing Authority ("NCHA") is an agency of the Northern Cheyenne Tribe and was established in 1962. It operates under the direction of a five person board, whose members are appointed by the Tribal Council for staggered four year terms. The NCHA was created under the provisions of the 1937 Housing Act and now operates as a Tribally designated housing entity under NAHASDA. The NCHA is currently responsible for managing approximate 800 housing units on the Reservation – 515 mutual self-help homes, and 285 low-income rental units. As indicated above, a majority of this housing stock needs substantial maintenance and repair. (Feeney, 1986:6-2; NCHA, 2001:28).

The Housing Authority projected a total of \$3,782,684 in resources in its FY 2001 budget. Of this, \$3,104,524 came from a block grant from HUD under NAHASDA. The block grant is a fixed number which varies according to appropriations for Indian housing on a national level and is projected to decrease in the future. NAHASDA funds are intended to cover both the NCHA's operating and capital expenses. In practice, under the NAHASDA block grant system, the NCHA has very little funding left over for renovations and new construction. For example, in FY 2001 a total of \$485,000 was allocated to such projects in comparison with \$821,500 for planning and administration, \$134,200 for utilities,

\$827,000 for maintenance, \$129,000 for insurance, and \$189,000 for tenant services. (NCHA, 2001:10-11; Simpson, 1-23-2002).

As is evident, the level of funding available for public housing is inadequate to meet the Reservation's existing need to improve the condition of existing housing and construct new housing units. The NCHA has approximately 581 families on its waiting list for low-income housing. This includes 219 families in Lame Deer, 48 in Birney, 57 in Ashland, 143 in Busby and 114 in Muddy. Many of these families have been on the waiting list for more than five years. Due to the long waiting list, many families do not bother to apply for housing. The NCHA believes that there are approximately 864 families living on or near the Reservation that need homes. (NCHA, 2001: 8-9). The total cost for providing homes for each of these families would be approximately \$75 million assuming an average new home cost of \$87,447 (as provided for in the BIA's Housing Improvement Program guidelines). (NCT HIP, 2002).

The NCHA likewise has only marginal capacity to bring existing housing up to standards. The NCHA has estimated that 503 of its approximately 800 units are in need of substantial renovation. (NCHA, 2001:28) Assuming an average cost of \$35,000 per renovation, it will take \$17.5 million just to bring all of its existing housing stock up to standards. This is more than five times the total HUD block grant for 2001 which was intended to cover the costs of existing operations in addition to capital projects such as renovations.

In its FY 2001 Housing Plan, the NCHA expected to renovate 11 low rent units and 40 mutual self-help units. No new construction was planned although the Tribe received 14 low rent homes for no cost from the Air Force. Although "free," these houses cost the Housing Authority approximately \$50,000 each in transportation, installation and other costs. At the same time it was acquiring 14 units of new housing, it also planned to demolish 5 units. If the net gain in housing is projected out into the future, it will take almost a hundred years before housing can be provided to every family on the Reservation even under the optimistic assumption that the number of families on the Reservation will remain constant. (NCHA, 2001:18, 20; Simpson, 1-23-2002).

It is worth noting that the amount of new housing constructed on the Reservation has declined from its high point in the 1970s and early 1980s. As a result, the amount of available housing has not even remotely kept up with increases in demand. Unless federal funding for Reservation housing projects is restored to the levels of two decades ago, the Tribe has little hope of resolving its housing crisis.

The promise of homeownership provided for under the MSH program has yet to be fulfilled. There are approximately 305 houses eligible for conveyance under the mutual self-help program. However, there are substantial barriers that prevent the Housing Authority from immediately transferring ownership of mutual self-help homes to qualified tenants. The houses must be evaluated and fully rehabilitated to address all public health and safety problems before being conveyed. Even after such renovations are completed, prospective homeowners now must wait years to obtain a conveyance because the land

on which the houses were built is owned in trust by the BIA for the Tribe or individual allottees. Some conveyances have languished for as long as five to six years pending resolution of these issues. (Rodriguez, 1-23-2002).

Housing Improvement Program. The HIP program is funded by the BIA under a contract between BIA and the Tribe under the Indian Self-Determination and Education Act, Pub.L. 83-638 ("638 contract"). HIP is a one-time assistance program to provide home renovation and repair services to homeowners with incomes 125 percent or less of the federal poverty line whose homes are in substandard condition. HIP money is not available to occupants of mutual self-help housing or low income housing managed by the NCHA. (Rising Sun, 1-23-2002; Martin, 2000; BIA, 1993).

Approximately 18 homes out of the approximately 191 substandard private homes on the Reservation are on the HIP program's priority list for complete renovation or replacement. . However, the HIP program has the budget to complete a maximum of 2 to 3 renovation projects each year. Consequently, households with elderly residents and large families with children are given special preference. There is a limit of \$35,000 per renovation. Where a renovation cannot be completed for this amount, the project cannot be funded. (Rising Sun, 1-23-2002).

Funding is allocated by the BIA on the basis of population and income data compiled in its Labor Force Reports for the Tribe. Additional funding may be allocated on the basis of a regional priority list. Last year, the program received the funding for only two projects through the regular HIP process and funding for an additional project through the special regional priority list. With 171 substandard private housing units on the Reservation, it will take decades for each house to be renovated at the current rate of renovations under the HIP program. (Rising Sun, 1-23-2002).

The Tribe's HIP program also receives grants from the U.S. Department of Agriculture's Rural Development program to assist low-income homeowners with weatherization projects. The grant limit is \$7,500 per project. Since 1991, annual awards to the Tribe have ranged from \$5,000 to \$66,255. Approximately 50 Reservation households have received grant assistance under this program between June 1992 and November 2001. The majority of the grants were for the full amount of the grant limit. (NCT HIP, 2002).

II. Utilities.

A. Water and Sewer.

The Tribe established the Tribal Utilities Commission ("NCUC") in 1966 as an independent Tribal organization responsible for the operation of water and sewer services in each district on the Reservation. (Northern Cheyenne Tribal Council, 2000) Since 1960, the Indian Health Service ("IHS") has been authorized by Congress (Pub.L. 86-121) to construct water supply and sanitation facilities on Indian reservations. Once constructed,

the Tribal Utilities Commission assumes ownership of the facilities and has the responsibility to operate and maintain them. (Feeney, 1986:6-11).

The NCUC charges user fees which are supposed to cover its operation and maintenance costs. Current monthly user fees are \$17 per household for water service and \$13 per household for sewer service. A connection fee of \$200 for members and \$350 for non-members is charged for new water and sewer hook-ups. In 2001 the Tribe provided the NCUC with a grant of \$100,000 from its General Fund to help defray its operating expenses. The Tribal Council resolution approving the subsidy (No. DOI-008(01)) attributed the need for a subsidy to the high cost of operating new reverse osmosis water treatment plants in Birney, Muddy and Ashland. At the same time, however, the Council exempted households headed by elders aged 60 or older from paying water and sewer fees and directed that all delinquent water and sewer accounts be forgiven. (Feeney, 1986:6-12; NCT, 2001; Scalpcane, 1-23-2002).

A description of the water and sewer facility in each of the five districts follows:

Lame Deer. The Lame Deer community water system serves approximately 770 connections and draws water from five alluvial wells with an average depth of approximately 88 feet. The fifth well was drilled in 1997 and became fully operational about two years ago. There are concerns about bacteriological contamination of this well which have been addressed through chlorination. The new well doubled the pumping capacity of the system to approximately 600 gallons per minute (gpm). In addition, a new 326,000 gallon storage tank was installed which brings the total storage capacity to about 700,000 gallons. Two other steel tanks were installed in the late 1960s and early 1970s. Both of these tanks need to be sandblasted and recoated on the interior. One of the tanks has blistering paint on 50 percent of the interior and also needs repainting on the exterior. The screen on the top of this tank and the overflow pipe also need to be replaced. (Scalpcane, 1-23-2002).

Prior to the installation of the new storage capacity, Lame Deer experienced occasional water shortages, especially in higher elevation areas. The new well and storage tank has largely alleviated this problem. The most significant remaining water system deficiency is the lack of adequate water pressure in the system for fire protection. Also, as discussed in the next section, about half of the fire hydrants in Lame Deer are inoperable. No Tribal agency claims any responsibility for maintaining the hydrants. (Matas, 2001:40; Young, 1999; Bolar, 1995; Wiseman, 1-24-2002; Scalpcane, 1-23-2002).

The Lame Deer sewer system serves approximately 400 residential connections and 50 commercial connections. The waste water treatment facility is a three-cell lagoon system which was constructed incrementally between 1957 and 1971. The ponds discharge into Lame Deer Creek, a tributary of Rosebud Creek, under a federal Clean Water Act discharge (NPDES) permit. The system is seriously inadequate and operates in violation of its NPDES permit limits for Biological Oxygen Demand ("BOD") at least once every month. The plant's waste water treatment cells are unlined and may be leaking into Lame Deer Creek. In addition, because the sludge at the bottom of the lagoons had been

allowed to accumulate over the years, the capacity of the system has been reduced by 50 percent. The system is now considered by IHS and the Environment Protection Agency ("EPA") to be overloaded. A major upgrade is needed to handle the current load and allow for community growth. (Feeney, 1986:6-14; Young, 1999; Wiseman, 1-24-2002; Scalpcane, 1-23-2002)

The Tribe has applied for a Community Development Block Grant of \$1.16 million to improve the existing treatment system. However, the grant was rejected because a prior CDBG grant had not been properly closed out. This project would include the installation of an additional primary treatment pond and the installation of fermentation chambers. This will require the raising of the dike walls on the existing ponds and the installation of liners. IHS has provided some funding for this project. Approximately \$350,000 in additional funding is necessary before this project can be undertaken. The above improvement is regarded as a short-term fix that is designed to carry the Tribe over for about the next ten years. In 2001, as a small part of this project, two of the three cells in the existing pond were dredged and six aerators were installed. (Scalpcane, 1-23-2002)

Over the long-term it is likely that a new treatment plant will be needed to accommodate population growth. It is estimated that a new plant will cost about \$3 million. (Scalpcane, 1-23-2002; Wiseman, 1-24-2002).

Busby. The Busby community water system serves about 116 connections and draws water from two wells that are 260 and 280 feet deep. Each well yields water at a rate of 50 gpm. Five 20,000 gallon underground storage tanks were installed in 1997. (EPA, 1998a). The water in Busby is treated with a water softener and a venturi fluoridation unit. A new pump house and additional storage capacity is needed for fire protection and to provide for future growth. IHS estimates the cost of this additional storage at \$170,000. (Scalpcane, 1-23-2002).

The Busby waste water treatment facility is an unlined two-cell lagoon system which was constructed in 1965 and expanded in 1982. The sewer system was last extended in 1990. Waste water is allowed to infiltrate into the ground so the plant operates as a large drain field rather than as a conventional wastewater treatment plant. (Scalpcane, 1-23-2002; Wiseman, 1-24-2002; Feeney, 1986:6-14).

Muddy. The Muddy Cluster community water system serves about 50 connections and draws water from a well that is about 125 feet deep. Water is stored in an above-ground 48,000 gallon steel tank constructed in 1975 and two 30,000 gallon underground fiberglass tanks constructed in the mid-1980s. Additional storage is necessary to provide water for fire protection and future growth. IHS estimates the cost of this additional storage at \$170,000. In addition, the well is failing. Production has dropped from 65 gpm to less than 20 gpm today. The water in Muddy Cluster is naturally high in iron and is not drinkable. In 1999, a reverse osmosis treatment was constructed by IHS using funds from a Community Development Block Grant. The plant produces drinkable quality water for the Muddy community but is difficult and expensive for NCUC to operate. (Scalpcane, 1-23-2002; Wiseman, 1-24-2002; Bolar, 1995).

Because of the new treatment system is undersized in relation to demand, the quantity of water produced by the Muddy water system is now inadequate. Muddy Cluster residents at times experience low water pressure or receive no water at all. In July 2001, the Tribal President ordered mandatory water rationing which prohibited all outdoor uses of water, including watering of gardens, until issues relating to the reverse osmosis system could be resolved. These restrictions remain in effect. (NCT Administration, 2001; Scalpcane, 1-23-2002).

The Muddy Cluster waste water system is an unlined two cell lagoon. As at Busby, the facility effectively operates as a drain field as water is allowed to leach into the ground before it can be treated. IHS has rated this as a sanitation deficiency and has estimated the cost of renovation at \$80,000. (Wiseman, 1-24-2002; Feeney, 1986:6-14).

Ashland. The Ashland community water system serves about 38 connections and draws water from a new well that is 110 feet deep with a yield of about 50 gpm. Water is stored in a 15,000 gallon steel tank constructed in 1970 and another 35,000 steel tank constructed in 1975. Although water quality was considered acceptable, IHS installed a reverse osmosis treatment plant in 1999. (EPA, 1998b; Wiseman, 1-24-2002; Scalpcane, 1-23-2002).

Although the reverse osmosis treatment plant has improved water quality immensely, the reverse osmosis facility has increased operation and maintenance costs. In addition, because the treatment plant is undersized, it has significantly reduced water availability to the point that Ashland residents living a higher elevations experience low water pressure or receive no water at all. In May 2001, the Tribal President instituted mandatory water rationing in Ashland prohibiting all outdoor use of water. This order remains in effect today. (NCT Administration, 2001).

The Ashland waste water treatment facility consists of an unlined two-cell lagoon constructed in 1969, which like the four other small systems on the Reservation, allows untreated waste water to drain into the ground. The Ashland facility is of greater concern because it is located immediately adjacent to the Tongue River. Waste water has been diverted to the cell farthest from the river to reduce possible impacts to water quality in the Tongue River. IHS regards the lack of treatment at the Ashland system as a "low priority" sanitation deficiency and estimates the cost of renovation at \$100,000. (Feeney, 1986:6-14; Wiseman, 1-24-2002).

Birney. The Birney community water system serves 25 connections and draws water from a 80 foot deep well with a yield of 32 gallons per minute. The well was drilled in 1962 and the pump house was replaced in 1999. The system includes two 20,000 gallon underground storage tanks, which were installed in 1998. (EPA, 1998c; Young, 1999).

The water in Birney is naturally high in iron and is undrinkable. In 1999 a reverse osmosis water treatment plant was installed by IHS under a Community Development Block Grant. The treatment plant for the first time provides high quality drinking water to the Birney community. However, it has been difficult and expensive for the NCUC to

maintain. Moreover, the treatment system reduces the quantity of water available to the community to the point where some Birney residents receive no water at all. In August 2001, the Tribal President ordered mandatory water rationing prohibiting all outdoor use of water. This produces hardship for residents who rely on their gardens to provide food. Some Birney residents have moved their gardens to the banks of the Tongue River and now use river water for irrigation. (Wiseman, 1-24-2002; Scalpcane, 1-23-2002).

The Birney waste water treatment facility consists of an unlined two-cell lagoon with an unknown construction date and which, like the three other small systems on the Reservation, allows untreated waste water to drain into the ground. IHS regards the Birney lagoons as a sanitation deficiency and has estimated the cost of renovations at \$100,000. (Feeney, 1986:6-14; Scalpcane, 1-23-2002).

B. Solid Waste.

Solid waste management on the Reservation is seriously deficient. The Tribe estimates that there are at least 20 open dumps on the Reservation. Historically, no Tribal agency has been in charge of solid waste management on the Reservation. Recently, the Tribe's Environmental Protection Department has become involved because the improper disposal of solid waste was leading to serious public health and environmental concerns. However, solid waste issues are still under the control of an ad hoc committee of the Tribal Council. (Millegan, 2-25-2002)

There are no sanitary landfills on the Reservation. The nearest sanitary landfills are in Hardin (about 58 miles from Lame Deer) and Colstrip (about 26 miles from Lame Deer). There is also no place on the Reservation to lawfully dispose of large items such as appliances and junk cars. The nearest salvage yard which accepts junk cars is in Hardin. (Bisonette, 2000:10; Millegan, 2-25-2002).

Most reservation residents haul their garbage and other waste to transfer stations that have been constructed by the IHS. Solid waste collected at these transfer stations is then transported by truck to sanitary landfills in Hardin or Colstrip. It is the Tribe's responsibility to operate these transfer stations. However, no federal funding is available for their operation and the Tribe does not charge a fee to users of the transfer stations. The Tribe contracts with a private waste hauler, CM Sanitation, to manage the solid waste transfer stations and take waste from the transfer stations to off-Reservation disposal sites. In the past, the contract did not clearly require the contractor to maintain the transfer stations and conditions at the stations were allowed to deteriorate. The most recent contract clearly requires CM Sanitation to maintain the transfer stations and provides the Tribe with remedies for default. However, the annual cost of the contract to the Tribe's is now \$290,000 compared with \$165,000 under the earlier contract. Of this amount, \$40,000 will be provided by the Housing Authority, but the balance must be paid out of the Tribe's General Fund. (Bisonette, 2000:1-2, 6; Millegan, 2-25-2002).

The transfer stations are still in deplorable condition. No access controls are in place, and restrictions on the dumping of commercial, construction or industrial waste are

not enforced. Large items such as appliances and bed springs are often dumped at the transfer stations. The Lame Deer transfer station has been closed since about 1995 because the roll-off bins were burned so many times that the bins could no longer be used to transport waste to a landfill. Nevertheless, trash, junk cars and other waste continued to be dumped at the transfer station and it became an open dump. Environmental remediation at this site is estimated to cost \$175,000. The Tribe hopes to receive a sanitation deficiency grant from IHS to complete this work. The work will not include rebuilding of the transfer station. (Bisonette, 2000:1, 12; Millegan, 2-25-2002) .

Until there is another option, Lame Deer residents will continue to haul their garbage to a transfer station at Muddy Cluster. The Muddy Cluster station was not designed to handle Lame Deer's garbage. The Muddy Cluster transfer station consists of a concrete headwall and one or two 40-cubic yard roll-off bins. The station is inadequate to handle the volume of trash deposited there and has also become an open dump. Garbage has been burned and buried at the Muddy Cluster transfer station (apparently by employees of CM Sanitation) to reduce the volume of garbage that would need to be hauled. The fence at the station is not adequate to contain windblown trash. The cost of cleaning up the Muddy transfer station is estimated to be \$60,000, which will also be paid for from the IHS sanitation deficiency grant. This work will include the construction of an 8-foot chain link fence with two gates, reclamation and reseeding of the site, and the placement of a scoria base around the transfer station. (Bisonette, 2000:5, 12-13; Millegan, 2-25-2002).

The Busby transfer station is of similar design to the transfer station at Muddy Cluster. Like the Muddy Cluster transfer station, there is no fencing at Busby to capture windblown garbage and no access controls to prevent dumping of large items, resulting in an accumulation of trash around the transfer station. (Bisonette, 2000:5).

There is no transfer station near the community of Ashland. Residents of that community must haul their garbage 26 miles to the Muddy Cluster station. Some residents of Ashland choose to burn their garbage in backyard burn barrels or dump it illegally to avoid the inconvenience of transporting their garbage to Muddy Cluster. (Bisonette, 2000:7, 12).

A new transfer station at Birney was constructed by IHS in 1999. The station consists of some steps which allow residents to more easily dump their trash in the container. Heavy items are typically left outside the station. Collection of the bin is twice monthly and is not adequate to control vectors and odors. (Bisonette, 2000:5, 8; Millegan, 2-25-2002).

In addition to the public transfer stations, private garbage collection does exist on the Reservation. Residents, businesses and governmental institutions can contract directly with CM Sanitation for on-site collection of garbage. As a result of high transportation costs, on-site trash collection is relatively expensive on the Reservation. The cost of residential service ranges between \$20 and \$40 per month. Institutions such as the IHS, BIA and the Lame Deer School District also contract for private waste collection services. The cost to IHS for garbage collection at the clinic and at its 28 housing units is \$44,000.

BIA pays \$42,000 for trash collection at its office and maintenance facilities and 22 housing units. The Tribal Housing Authority similarly contracts for private collection service and provides this service at no charge to residents of low-rent housing. Each resident is provided with a 95-gallon bin which is collected once a week. The annual cost to the Housing Authority providing this service is about \$40,000. The Tribe and Tribal enterprises such as the casino take their waste to the Muddy transfer station. Other businesses take their own trash to Colstrip to avoid high hauling fees. (Bisonette, 2000:3-4, 7; Millegan, 2-25-2002).

There is no curb-side or other recycling services on the Reservation and no programs are in place to reduce the volume of trash generated. Because the transfer stations are unsupervised, there is no ability to sort waste by type. Clean waste like concrete or wood is mixed with household waste resulting in much higher disposal costs. (Millegan, 2-25-2002).

The Tribe has applied for a Community Development Block Grant to construct a modernized transfer station in Lame Deer. The station would be manned and equipped with a compactor and a bailer. Waste would be segregated on site and recycling of certain items such as aluminum cans and household appliances would be provided. The Tribe estimates that it would cost approximately \$1 million to construct this facility. The long-term plan would be to close the transfer stations and provide for curbside pickup in the five districts. (Millegan, 2-25-2002).

Even if such a modern waste handling facility were constructed, the Tribe does not have adequate resources to operate the solid waste management system. Currently, the entire cost of operating a solid waste management system must come from the Tribe's own diminishing General Fund resources. As shown in the previous chapter, these resources are plainly inadequate to pay the full costs of solid waste management on top of all other Tribal priorities. This is true whether management is contracted out or provided directly by Tribal government. While a user fee system could help defray the costs of solid waste collection and disposal, there is a significant danger that the imposition of user fees will lead to further increases in illegal dumping on the Reservation since a substantial number of households live on incomes well below the poverty line and cannot afford to pay for trash collection. (Millegan, 2-25-2002; Bisonette, 2000:6, 14).

III. Law and Justice.

The Northern Cheyenne Reservation has serious law and order problems. In 2000, there were 5134 arrests for minor crimes and 34 arrests for major crimes on the Reservation. This represents over one arrest for every person on the Reservation. There were also 22 incidents in which law enforcement officers were assaulted. The number of minor crimes increased sharply from 3399 in 1999 although the number of major crimes fell from 45. The number of juvenile crimes also increased in 2000 to 1133 arrests from 521 in 1999. Overall, both the adult and juvenile crime rate has risen steeply over the past few years. Table 5-1.

Table 5-1 – Arrests on the Northern Cheyenne Reservation by Year

	1997	1998	1999	2000
Adult	930	1807	3444	5168
Juvenile	130	373	521	1133

(BIA; Boys and Girls Club of Cheyenne Nation, 2002.)

Tribal law makes possession of alcohol a criminal offense. Consequently, intoxication and possession of alcohol are by far the most common crimes for which arrests are made on the Reservation. Of the 5168 arrests made in 2000, more than half were directly related to alcohol: 2003 for drunkenness, 538 for violation of the Tribe's liquor laws, 163 for DUI, and 284 for disorderly conduct. Alcohol-related crimes are a chronic problem with many repeat offenders. Police officials estimate that as much as 95 percent of the crime on the Reservation is alcohol related in some way. Decriminalization of alcohol on the Reservation would allow the police to focus on more serious crimes but also might increase the frequency such crimes were committed. Drug and alcohol recovery programs are discussed in Part V.B. below. (Naranjo, 1-24-2002; Melville, 1-24-2002).

A. Police Department.

The Northern Cheyenne Reservation Police Department is under the direct control and supervision of the BIA. Since the enactment of the Indian Country Law Enforcement Reform Act of 1996 (ICLERA), the Reservation police chief has reported directly to the BIA's district commander in Billings, instead of the agency superintendent in Lame Deer. The Lame Deer agency superintendent now has no authority over the police department or its budget. (WRICOPS, 2000:19; White, 1-08-2002).

During the 1970s and early 1980s, the Tribe administered the Police Department under a 638 contract with the BIA. Responsibility for the Police Department was retroceded back to BIA in about 1985. The Northern Cheyenne Reservation is one of only six reservations out of the 45 reservations under the jurisdiction of the BIA's Billings area office where direct responsibility for the Police Department still rests with the BIA. (Naranjo, 1-24-2002).

BIA funding for the Reservation law enforcement totaled about \$1.4 million in FY 2001. BIA funding is supplemented by funding provided by the United States Department of Justice (DOJ) to the Tribe through the Office of Community Oriented Policing Services (COPS) for the Comprehensive Indian Resources for Communities and Law Enforcement (CIRCLE) pilot project. The CIRCLE pilot project has provided approximately \$10 million over three years to the Tribe beginning in FY 2000 for the purpose of enhancing its existing law enforcement capability. Approximately \$8 million of this grant has been allocated for a new juvenile rehabilitation facility, while the remaining funds have gone to strategic

planning, equipment, victim services, prosecution and court enhancement. The Northern Cheyenne Tribe was designated by Congress as an original participant in the CIRCLE pilot project. However, after FY 2002, Northern Cheyenne will have to compete with other tribes for available funds from this program. (Naranjo, 1-24-2002; Dahle, 1-24-2002).

The Police Department is managed by a chief of police who reports directly to the district commander in Billings. The police chief has considerable flexibility in the day to day operations of the Department and the design of the organization. The Department's command structure is simple and follows the traditional quasi-military model. Sergeants run the day to day operations although due to funding constraints a sergeant is not always on duty. The sergeants report directly to the police chief. Line officers are under the command and report to the sergeants. (WRICOPS, 2000:19).

Currently, the Department is staffed by 18 officers, including the chief of police, two sergeants and 15 line officers. Of the 18 officers, 13 are funded directly by the BIA and another five positions are Tribal employees funded by DOJ's COPS program. These COPS-funded Tribal officers are managed by and supplement the BIA's Northern Cheyenne Police Department under a memorandum of agreement between the Tribe and BIA. Tribal officers are not as well paid and, unlike regular BIA officers, do not enjoy many of the same benefits as the BIA officers even though they wear the same uniform. Tribal officers also are chosen by a different selection process than BIA officers and do not need to have the same qualifications as regular BIA officers. In addition, the Tribal police officers funded by the DOJ are not entitled to overtime pay. (WRICOPS, 2000:22; Naranjo, 1-24-2002)

In addition to the 18 uniformed officers, the BIA funds two criminal investigator positions, six dispatchers, six detention specialists, and two clerical staff. The senior criminal investigator position has been vacant for the last two years and the chief of police position has been filled in a temporary capacity since April 2001. (Naranjo, 1-24-2002; WRICOPS, 2000).

Funding for Reservation law enforcement activities has increased since the passage of ICLERA in 1996 and the inauguration of the CIRCLE project last year. However, Police Department staffing levels are still below those of the early 1990s and are still inadequate to meet the Reservation's needs. A police force of 18 officers is not adequate to cover an area the size of the Northern Cheyenne Reservation 24 hours a day, seven days a week. There are often times when the Police Department has only one officer on duty for the entire Reservation. (Naranjo, 1-24-2002).

Police protection on the Reservation is most inadequate outside of Lame Deer. In addition, the outlying communities place demands on the police for such services as delivery of food to elders. There are no police stations or substations in Muddy, Birney, Busby or Ashland. Unless an officer happens to be in the area, response times to the other districts range from 10 minutes to Muddy Cluster to as long as a half-hour in Birney and Ashland (in good weather). The BIA district commander believes that a uniformed police force of 25 to 30 officers would be needed to provide minimally adequate law

enforcement services in each Reservation community and that a police force of 50 officers would be ideal. (Naranjo, 1-24-2002; Melville, 1-24-2002).

The Police Department has recently upgraded its equipment although it is still substandard. Upgrades have included new police cruisers, a new security camera in the jail, new radio equipment, new body armor and weapons. Much of this upgrade was funded through the CIRCLE pilot project. However, police radios still need to be updated to include digital encryption, and a radio tower needs to be installed in the southeastern portion of the Reservation to provide police radio coverage in the Birney area. (Naranjo, 1-24-2002; Dahle, 1-24-2002).

Reservation law enforcement is still hampered by unresolved jurisdictional conflicts. Under Supreme Court precedent, Tribal courts have no criminal jurisdiction over non-Indians who commit crimes on the Reservation. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). Tribal police do not have authority to arrest non-Indians who commit crimes on the Reservation. However, Reservation police do have authority to detain non-Indians and turn them over to the appropriate off-Reservation law enforcement agency for possible prosecution. *Duro v. Reina*, 495 U.S.676 (1990). Non-Indians who commit misdemeanors on the Reservation must be turned over to the relevant county sheriff's department for prosecution in State court. Non-Indians committing felonies on the Reservation are turned over to the FBI for prosecution in federal court. The Reservation police process and hold non-Indians at the Reservation jail before turning them over to the county sheriff or the FBI for further action. However, the Montana Supreme Court has held that State courts lack jurisdiction over crimes committed by non-Indians on Reservations where the victim of the crime is an Indian. *State v. Greenwalt*, 204 Mont. 196, 663 P.2d 1178 (1984). (Naranjo, 1-24-2002).

Despite these jurisdictional gaps, the Northern Cheyenne Police Department has no written agreements with the sheriff's departments in Bighorn and Rosebud Counties. No cross-deputization agreements exist which would allow the Reservation police to enforce State law on the Reservation. Partnerships, such as mutual aid agreements, crime and drug task forces, and in the areas of training, investigations and information sharing, are also lacking. However, the Reservation Police Department is reported to have a good working relationship with law enforcement agencies on the Crow Reservation and in the neighboring counties. (Naranjo, 1-24-2002; WRICOPS, 2000:40).

State and County law enforcement officers typically maintain little or no police presence on the Reservation and do not routinely patrol State highways that cross Reservation lands. Although a State highway patrol officer is stationed in Colstrip, the next nearest officer is stationed in Miles City. As a practical matter, traffic enforcement is left to the Reservation police force, despite the fact that it has no authority to enforce State traffic laws against non-Indians. Non-Indian motorists stopped for traffic offenses are typically issued warnings rather than citations. For the most serious offenses, the Reservation police detain and turn over the offender to the county sheriff. (Melville, 1-24-2002).

In addition to areas within the jurisdiction of the Reservation police, there are several locations just off the Reservation which cause law enforcement problems for the Tribe. One location has been identified as a place where stolen property is sold, and another ("Jimtown") as a source of bar fights where Tribal members have been seriously injured. Jimtown, located just north of the Reservation along Highway 39 in Rosebud County, poses particular problems for the Reservation police. Reservation police are often dispatched to this location because they are much closer than Rosebud County sheriff's deputies. Reservation police have no formal agreement with Rosebud County and respond only because of their concern for the safety of Tribal members. Officers have complained that Rosebud County would not contact the Reservation police when Tribal members are found intoxicated and wandering near the Reservation. (WRICOPS, 2000:40).

The Police Department's reporting, record keeping and information management systems are inadequate, although they are reportedly improving. There is currently no records department and incident reports are not kept on file. Thus, there is no way to track the number of calls for service. A monthly report provides the number of arrests, but the Department conducts no formal crime analysis. As recently as two years ago, Tribal prosecutors were losing 75 percent of their cases at arraignment due to inadequate police reports. The situation has since been reportedly improved so that 90 percent of cases now plea out at the arraignment stage. (Melville, 1-24-2002: WRICOPS, 2000:29).

The Police Department has made an effort to implement Community Oriented Policing (COP) where police officers are more directly involved in addressing social problems in the community. However, a August 2000 assessment found that progress in implementing the COP philosophy was very slow and that no police officer had received COP training except for the Chief of Police. (WRICOPS, 2000:32)

B. Detention Facilities.

The Reservation operates a Detention Center which is managed by the BIA's Northern Cheyenne Police Department. It is currently staffed by six detention specialists. The facility has a capacity to hold 20 inmates, 14 male and six female. Both long-term and short-term detainees are housed at the facility. Four long-term inmates are currently being held at the facility, three of whom are serving three-year terms. In the past, the facility housed both juvenile and adult offenders, although only adult offenders are held there currently. (Russell, 1999; Melville, 1-24-2002).

The Detention Center was constructed in 1965 and was last renovated in 1986. The facility is clean and sanitary. Cells are 120 square feet and are located in cell blocks with day rooms, wet cells and one shower per block. There is a holding cell for intake and a cell with no furnishings that is used as a drunk tank. There are small outside recreation yards which are currently not used due to lack of adequate staffing to monitor inmates. There is a visiting room for non-contact visits which are held on Sundays from noon to 4 pm. Because of the facility's poor design, existing staff are unable to properly monitor all inmate cells on a regular basis. Staffing is limited to a single detention officer on most shifts. (Russell, 1999).

A new, larger facility is greatly needed to meet existing demands. The facility is often overcrowded at the present time and occasionally is severely overcrowded. When the number of detainees exceeds capacity, detainees are put on mats on the floor of the cells. The interim Reservation police chief estimates that the detention facility is overcrowded on average about five days per week. On one occasion in the recent past, 78 inmates were held at the facility at one time. The Department has to release non-violent offenders after each weekend to prevent severe overcrowding. New detention facilities on Indian reservations are typically funded by the United States DOJ. The DOJ, however, funded the construction of only five jails in Indian country nationwide last year. (Naranjo, 1-24-2002; Melville, 1-24-2002).

The Tribe currently lacks any dedicated detention facility for juveniles. The Detention Center has a holding cell where six juveniles can be kept on a short-term basis but no capacity for long-term juvenile detention. While juveniles have been housed at the detention center in the past, cells for juveniles have no sound separation and only minimal sight separation from adult offenders. The jail provides little or no regular supervision, no programs for juvenile offenders, no recreation, and no opportunity to address the problems that resulted in the youth being detained. Consequently, the Detention Center is used to house juveniles only on rare occasions. (Russell, 1999; Dahle, 1-24-2002).

The CIRCLE project recently committed \$8 million for the construction of a 31,000 square-foot juvenile detention facility on the Reservation in Busby. To receive this award, the Tribe must provide an \$800,000 matching contribution. The Tribe has applied for grants from the Economic Development Administration and other sources to help fund its share. Once constructed, the new facility will include a temporary holding unit, a 12-bed secure detention center for the most serious offenders, a 12-bed non-secure group home, a 12-bed mental health unit, a day probation facility, an alternative school, a vocational training center, a cadet training program, and an assessment center. The Tribe's drug and alcohol Recovery Center will operate out of the facility and the Boys and Girls Clubs will sponsor activities and services. The emphasis of the facility will be on treatment and rehabilitation. The BIA is supposed to fund the operations and staffing of this facility. If funding is secured, construction will start in May 2002 and will be completed in October 2003. (Zavlek, 2000; Dahle, 1-24-2002).

C. Tribal Court System.

The Tribe administers a court system on the Reservation under a 638 contract with the BIA. BIA funding for the Tribal Court in FY 2002 is \$236,913. The Northern Cheyenne Court is separated into the Trial Court, the Appellate Court, and the Constitutional Court. Two Trial Court judges are elected for four-year terms, one of whom is appointed by the Tribal Council as the Chief Judge. The Clerk of Court is appointed by the Tribal Council. In addition, the staff consists of four Deputy Court Clerks, a process server, and adult probation officer, a family court coordinator, two juvenile probation officers, and an administrative clerk. The juvenile probation officers, the process server, and in part the family court coordinator are funded by the CIRCLE Project. The Tribal administration employs a Chief Prosecutor. There are no public defenders, although Montana Legal Services does provide assistance for indigenous clients in non-criminal adjudications. The

Court provides space for the attorney to meet with the clients on a weekly basis. (Robinson, 3-07-2002; NCT 2001d).

The physical facilities of the courthouse are extremely inadequate. It is a steel frame structure built in 1982 for a Court staff of five, so some of the Court staff must now be housed with the prosecutor, the Boys and Girls Club, and Tribal Health. The wiring and bathroom facilities are inadequate. The building is not secure, and there is no storage space. The Court rents a steel portable storage unit that is placed next to the Court. It has no electricity or heat. (Robinson, 3-07-2002).

The Tribal Court and Prosecutor have a huge criminal case load in comparison with off-Reservation jurisdictions of similar population size. In FY 2001, the Tribal court processed over 4,000 criminal arraignments, a number comparable to State courts in Billings, which has roughly 12 to 15 times the population of the Reservation. Approximately 65 percent of the arraignments are for possession of alcohol or intoxication. These are violations of Tribal law that would not be considered crimes in off-Reservation communities. These offenses are typically punishable by fines of between \$20 to \$200. (Wilson, 1-09-2002).

An average of five bench trials are held each month. There is an increase in requests for jury trials. Any person appearing before the court on a criminal charge has a right to a jury trial, provided that they will be incarcerated for the offense if found guilty. Approximately 15 to 20 jury trials are scheduled for one week per month, with three to four defendants actually going to trial. As of the winter of 2000, there was a huge backlog of criminal and civil cases. A new case management system has been implemented resulting in almost no backlog of criminal cases, and a reduction in time from up to a year from arrest to trial to currently 90 days. Civil and juvenile cases are being heard on a regular and timely basis, and final orders are now usually issued within 30 days. (Robinson, 3-07-2002).

The United States Supreme Court decided in *Oliphant* that tribes do not have criminal jurisdiction over non-Indians. A non-Indian who commits a crime against an Indian on the Northern Cheyenne Reservation will be tried before a Federal magistrate. If the victim is also a non-Indian, the State of Montana has jurisdiction to try the offender. The Northern Cheyenne Court will provide an opportunity for a non-Indian offender to waive his right to be tried before a Federal magistrate for offenses within the jurisdiction of the Tribe, and voluntarily accept the jurisdiction of the Tribe. If they elect not to do so, the Prosecutor of the Tribe will initiate an action to exclude the accused from the Northern Cheyenne Reservation. The Tribal court has been able to use the threat of exclusion to induce non-Indian offenders to voluntarily submit to Tribal criminal jurisdiction. However, this is a cumbersome process for addressing the jurisdictional gap and does not adequately protect the Reservation from lawless non-Indians, especially those who do not reside on the Reservation and for whom banishment is not a serious threat. (Robinson, 3-07-2002; Wilson, 1-09-2002).

As a result of the approximately 23 adverse decisions of the United States Supreme Court involving jurisdiction of Indian Tribes, it would be to the advantage of the Northern Cheyenne Tribe to initiate or to participate in government-to-government discussion and

negotiations to resolve jurisdictional issues. The Northern Cheyenne Reservation is approximately 98.5% tribal or tribal member owned, and the jurisdictional issues can be readily distinguished from those that arise on checkerboarded reservations. (Robinson, 3-07-2002)

In addition to its heavy criminal case load, the Court handled 261 civil cases in FY 2001. Off-Reservation and on-Reservation non-Indians and businesses filed their causes in Northern Cheyenne Court, with no challenges to the jurisdiction of the Court in FY 2001, and none to date in FY 2002. Only one enrolled member of the tribe who resides off of the Reservation has challenged the jurisdiction of the court. The complaints are for damages, debt collection, and contract enforcement. The Court enforces execution of judgments through contempt powers and, at rare times the Bureau of Indian Affairs Law Enforcement Services. Although the Northern Cheyenne Court enforces judgments from other jurisdictions, it has been reported to the Court that Northern Cheyenne Court orders are sometimes difficult to enforce off the reservation. (Robinson, 3-07-2002).

IV. Fire Protection.

The Northern Cheyenne Tribe administers a Fire Department using funds obtained from the BIA under a 638 contract. The total budget for the Fire Department is \$91,000. The Department has only two paid staff, a fire protection manager, and an office manager. The fire chief and all fire fighters are volunteers. The BIA 638 contract is intended to fund a fire prevention and education program but is not intended to fund a volunteer fire department. However, because the Tribe has no tax base, it has no other source of revenue to fund the operations of the department. By contrast, the fire departments in Ashland and in rural areas of Big Horn County are State funded and the Colstrip fire department is funded through local property taxes. (Soldierwolf, 1-23-2002).

The Fire Department currently has 14 volunteer firefighters. There is a lack of funding for training, with only \$2,500 budgeted for the entire department in FY 2002. With this budget, each volunteer firefighter can obtain only the minimum of 36 hours of basic training annually. Volunteers receive no specialized training and there are no emergency medical technicians (EMTs) in the Department. The Department's fire chief has some professional experience with the Belgrade, Montana and other fire departments. The Department could use at least \$10,000 annually in additional funds for training. (Soldierwolf, 1-23-2002).

The current level of staffing is extremely inadequate for a community of the size of the Northern Cheyenne Reservation. The Fire Department responds to between 120 and 150 calls for service annually. By comparison, the fire department in Hardin, a community of similar size, has approximately 36 volunteer firefighters who form six teams which provide 24-hour on-call coverage. Unlike volunteer firefighters in Hardin and most other off-Reservation communities, volunteer firefighters on the Reservation do not receive any compensation for the time they spend on duty actually fighting fires. As a result of understaffing and the lack of funding to pay firefighters for time spent on duty, it is very difficult

to keep enough volunteers on call. A house in Lama Deer recently burned down because there were not enough volunteers in town to respond to the fire. (Soldierwolf, 1-23-2002).

The Department has no funds available for purchase of new equipment and its FY 2002 budget for equipment maintenance and repair is only \$10,000. Its equipment is all old and outdated. One of its fire trucks is over 40 years old; two others are approximately 30 years old. A 10-year old truck is currently on loan from the BIA. The Department has 30 protective suits that are all at least 12 years old and 15 breathing units that are at least 8 years old. Much of this equipment is surplus that was donated by the St. Labre Mission, which has its own well-equipped fire department. The Department needs at least two new functioning fire trucks, each of which costs approximately \$100,000. (Soldierwolf, 1-23-2002).

A serious problem in Lama Deer is the lack of operable fire hydrants. Of the 65 total hydrants in Lama Deer, 25 do not work at all. Only seven yield more than 700 gpm and 18 yield less than 200 gpm. No Tribal agency is in charge of maintaining fire hydrants and no funding is allocated for this purpose. Where an adequate hydrant is unavailable, the Department must shuttle water from other hydrants or the town's water tanks. It takes an average of seven minutes to shuttle water to a fire in Lama Deer and as consequence buildings have burned down unnecessarily. During the 1990s, the Tribal Center and the Health Clinic were lost to fire. The closest hazardous materials teams are in Billings and Rapid City. (Soldierwolf, 1-23-2002).

Fire protection in the outlying districts is even worse than in Lama Deer. There are no fire stations except in Lama Deer. Response times for fires in other districts range from 5-10 minutes in Lama Deer, to 35 minutes in Busby and 45 minutes in Ashland and Birney. In 1998, part of the Tribal school in Busby was lost to fire. (Soldierwolf, 1-23-2002).

In September 2000, the Insurance Service Office gave the Tribe's Fire Department a ranking of "1" on a scale of 1 to 10. Fire insurance rates on the Reservation are among the highest in the State of Montana. (Matas, 2001).

V. Health.

Health care services on the Reservation are provided directly by the Indian Health Service (IHS) an agency of the U.S. Department of Health & Human Services which administers the Northern Cheyenne Community Health Center in Lama Deer, and since 1996, by the Tribe's Department of Health under an annual funding agreement with the IHS. Total IHS funding for health care services on the Reservation in FY 2000 was \$14.1 million. Of this, \$5.7 was provided to the Tribe under the annual funding agreement. Below we describe the services provided directly by IHS to the Reservation community and then the services provided by the Tribe.

A. Indian Health Service Programs.

Lame Deer Clinic. The Northern Cheyenne Community Health Center is located in Lame Deer, just north of U.S. 212. It was completed in July 1999 six months ahead of schedule at a cost of approximately \$12 million. The prior IHS clinic in Lame Deer burned down in 1996. During the interim period, the IHS clinic operated out of trailers and other temporary facilities. (Littlewolf-Millegan, 1-10-2002).

The new Health Center provides free outpatient services to Northern Cheyenne Tribal members and other Indians living on or near the Northern Cheyenne Reservation. However, it is not a hospital. Native Americans needing hospital services and other critical care services, including kidney dialysis, must obtain them at the IHS Crow Agency hospital, 42 miles by road from Lame Deer, or at hospitals in Billings or Sheridan, Wyoming. (Littlewolf-Millegan, 1-10-2002).

The Health Center is triple the size of the prior clinic and includes an emergency room, an ambulatory outpatient treatment facility, a dental clinic, an optometry clinic, a physical therapy center, and a pharmacy. Since the new Health Center was constructed, staffing levels have more than doubled. IHS now has approximately 100 health care workers employed on the Northern Cheyenne Reservation. The Health Center is currently funded for seven medical doctors (one position is currently vacant), three nurse practitioners (two positions are currently vacant) and 13 registered nurses. An emergency room doctor and nurse assistance are now present on a 24-hour basis. The Health Center also employs a full-time optometrist, three dentists, two physical therapists, and three pharmacists. Although staffing levels have improved, the Health Center's ability to retain qualified staff, even where funding is available, is hampered by the lack of housing and other services in the town of Lame Deer. (Prairie Bear, 1-25-2002; Littlewolf-Millegan, 1-10-2002; IHS, 2002).

The inauguration of the new Health Center exposed a large latent demand for health care services on the Reservation. In the first year of its operation, the annual number of clinic visits increased by over 10,000. There were 64,022 patient visits to the Health Center in October 2000 through September 2001. Of these, 15,383 involved emergency room visits. The Health Center has a database for over 7,000 patients, suggesting that many Northern Cheyenne Tribal members living off the Reservation also have made use of the Center. (Littlewolf-Millegan, 1-10-2002; IHS, 2002).

Despite the major improvements in services, the Health Center is by no means sufficient to meet the health care needs of the Northern Cheyenne Reservation. The emergency room at the Health Center is not fully certified and lacks critical care facilities. X-rays and laboratory services are unavailable except during normal business hours. There is no kidney dialysis facility, despite the extremely high rates of diabetes on the Reservation. Tribal members must still travel off Reservation to obtain dialysis treatment,

as well as specialty care and treatment of medical conditions requiring hospitalization or other in-patient care. Staffing at the dental clinic is inadequate to meet the current demand for dental services on the Reservation. (Mexican Cheyenne, 1-25-2002; Littlewolf-Millegan, 1-10-2002).

Although the Health Center's primary mission is to provide health care to Native Americans, it is the nearest health care facility for significant parts of the rural areas surrounding the Reservation. For this reason, the Health Center does provide health care services to non-Indians, including limited services to non-Indian Tribal employees. The Center's emergency room is open to patients, Indian and non-Indian, who need emergency medical services. This includes persons involved in accidents on Reservation highways and residents of off-Reservation areas in the Tongue River Valley, including the communities of Ashland and Birney. Because the Tribe operates the only ambulance service in these communities, non-Indians in these communities who need emergency care are often taken to the Reservation health clinic. (Littlewolf-Millegan, 1-10-2002).

IHS's cost recovery system is less than adequate. Non-Indians are billed for the services they receive at the Health Center. For example, the clinic charges non-Indians a flat fee of \$50 for an emergency room visit. Currently, however, little if any action is taken to collect on unpaid invoices that are not covered by insurance. The cost to the Health Center for the unreimbursed medical expenses of non-Indians is not a trivial amount. In the nine-month period from January through September 2001, the Health Center provided \$54,578 in health care services to non-Indians for which payment has not been received. (Littlewolf-Millegan, 1-10-2002).

Contract Care. Health care services that cannot be provided at the Northern Cheyenne Health Center are referred out to other IHS facilities, such as the IHS hospital at Crow Agency. If the needed services are not available at an IHS facility, the patient is referred to a private off-Reservation health care provider under the IHS contract care program. The annual budget for all contract care on the Northern Cheyenne Reservation in FY 2000 was \$2.28 million. This budget is set on the basis of a formula that allocating money appropriated by Congress for the entire nation. Funding levels do not guarantee that needs will be met. Program expenses routinely exceed budgeted funds. Funding for the current quarter which ends on March 31, 2002, ran out in mid-February. As of March 22, 2002, 34 cases qualifying for contract health care services were being deferred due to lack of funding. The entire program was \$1 million over budget in FY 2001 and had to request emergency funding. (Littlewolf-Millegan, 1-10-2002; Mason, 3-22-2002; Whitewolf, 2002).

Due to the limited budget, contract health care must be rationed and denials of care are frequent. (Littlewolf-Millegan, 1-10-2002). Currently, the Contract Care program funds only urgent health care needs which involve life or death situations. More routine health care needs such as orthopaedic surgery, are not covered. Likewise, expensive treatments, such as organ transplants, are not covered even where they could save the life of the patient. (Mason, 3-22-2002)

B. Tribal Department of Health.

The Tribe's Board of Health oversees a number of additional health care services on the Reservation under contract with IHS which compliment the services provided directly by IHS at the clinic. These include emergency medical services, behavioral health services, public health nursing, environmental health services, health education, drug and alcohol recovery, nutrition, domestic violence services, community health representatives, the adolescent health center, and traditional medicine. The Board of Health also provides health care transportation and is responsible for health care planning on the Reservation. The total budget for these programs in Tribe's FY 2002 is \$6.2 million, of which \$5.8 million is provided for under an annual funding agreement with IHS. The remainder of the Board's funding is provided by other federal agencies and private foundations. Some specific programs are described briefly below.

Emergency Medical Services. The Tribe's Board of Health operates an ambulance service under contract with the IHS. Its FY 2002 budget is \$321,666. The service holds an Advanced Life-Support Level, Ground Ambulance Service license issued by the State Department of Public Health and Human Services. (Spang, 1-25-2002; NCT Emergency Medical Services, 2001).

The Tribe's emergency medical services (EMS) program is staffed by three licensed paramedics. The director of the EMS program is EMT trained at an intermediate level and eight additional staff members are trained at an EMT-basic level. At current staffing levels, a licensed paramedic is available at all times on weekends and on weekdays from 8 am to 4 pm. This leaves 16 hours a day during which there is no paramedic coverage. The programs also have several volunteers on call who have some EMT training. (Spang, 2002; NCT Emergency Medical Services, 2001)

In FY 2000, the EMS program responded to a total of 1,286 ambulance calls. Of these, 715 were emergency calls and another 571 involved ambulance transfers to outside facilities. (NCT Emergency Medical Services, 2001)

The Tribe's EMS program's mission is to provide seven-day, 24-hour emergency medical services on or near the Northern Cheyenne Reservation. The EMS program serves both Indians and non-Indians and responds to service calls beyond the Reservation boundaries, specifically in off-Reservation communities in the Tongue River valley such as Ashland and Birney. The town of Ashland currently operates a quick response unit but has no ambulance service. The Tribe attempts to collect reimbursement for the cost of providing EMS services to non-Indians. A total of \$100,806 in third party reimbursements were collected in FY 2000. Information on unpaid reimbursements was unavailable. (Spang, 2002; NCT Emergency Medical Services, 2001)

Behavioral Health Services. The Board of Health administers a Behavioral Health Services program which provides a range of mental health services from its offices in the IHS clinic at Lane Deer. Its FY 2002 budget is \$644,744. The program is staffed by a full-

time director who is a licensed clinical psychologist, two mental health specialists and a medical social worker. A contract child psychologist is available on a quarter-time basis (10 hours/week) and a consulting psychiatrist is available for 12 four-hour, on-site visits per year. (NCT Behavioral Health Services, 2001).

Finally, the program provides consultation, education, and prevention-oriented services to the Reservation community. This involves gathering, organizing, and incorporating behavioral health information into interventions and communications with the target population. For example, this includes participation on the Tribe's child protection team and its domestic violence task force. (NCT Behavioral Health Services, 2001).

The Behavioral Health Services program handled 3,545 clinic visits in FY 2000. These included evaluations and assessments, psychotherapy, behavior modification, consultations with parents regarding child behavior and development, and psycho-educational activities to help patients cope with health problems where behavioral factors are an important component. The program also meets the need for court-ordered psychological and involuntary commitment evaluations. (NCT Behavioral Health Services, 2001).

The program has a definite need for additional staffing in the area of child psychology. The program's budget allows for retention of a child psychologist on a quarter-time basis only. Between January and October 2000, the child psychologist was responsible for 111 child clients in clinical situations which involved trauma, loss, and disability. (NCT Behavioral Health Services, 2001).

The program also provides very limited treatment for patients with serious mental illnesses. During FY 2000, 42 patients with serious mental illness were seen for a total of 91 psychiatric evaluations. Over 100 additional clients were treated at Behavioral Health Services for severe depression, schizophrenia, bipolar disorder and other serious mental illnesses. The program has very limited resources available to treat these patients as a psychiatrist makes only one four-hour visit to the Reservation every month. (NCT Behavioral Health Services, 2001).

Public Health Nursing. The Northern Cheyenne Board of Health's Public Health and Community Health Nursing programs provides services in the areas of communicable disease control, immunizations, maternal child health, podiatry and orthotics, and hospital discharges. The programs also provide home care to elders with chronic diseases and operates community health centers in Busby, Ashland, and Birney. The Tribe's FY 2002 budget allocates \$159,919 for Public Health Nursing and \$376,912 for Community Health Nursing. The programs currently have approximately ten registered nurses on staff. This represents an increase of seven nurses since the opening of the new Health Center in June 1999. In FY 2000, the Public Health Nursing program had 9,704 patient encounters which included 4,281 home visits. (NCT Public Health Nursing, 2001.)

Drug and Alcohol Recovery. The Department of Health operates an on-Reservation drug and alcohol recovery program. The program provides evaluation and assessments, treatment referrals, one-on-one and group counseling to both adolescents and adults, after-care planning and counseling, spiritual counseling, family counseling, and education. In FY 2000, the program provided services to 355 patients. Of these, 78 patients were adolescents. Only 42 of these patients were first time patients. (Bearcomesout, 2-26-2002; Northern Cheyenne Recovery Center, 2001).

The Tribe's program has a total budget of \$887,923 in FY 2002 and a staff budget of \$416,785 which allows it to fill 15 positions including nine counselors. Only six of the nine positions are currently filled. It has been difficult to retain certified counselors because the budget does not allow the Tribal program to pay competitive wages. Starting counselors earn \$12 per hour or \$24,000 per year. IHS pays counselors on the Crow Reservation as much as \$35,000. There is also a problem with finding qualified Northern Cheyenne Tribal members to serve as counselors. Certification requires a college degree and Dull Knife College has discontinued its chemical dependency counselor education program. (Bearcomesout, 2-26-2002).

Despite huge problems with chemical dependency, the Reservation has no in-patient drug and alcohol treatment facility. Patients are referred out to facilities in Sheridan and Cody, Wyoming and Great Falls and Billings, Montana. There is a serious lack of funding for drug and alcohol treatment referrals. Drug and alcohol treatment at off-Reservation in-patient facilities costs approximately \$220 per day. A normal course of treatment is 28 days for adults and 45 days for juveniles. Only \$65,000 is available for adult counseling and \$135,000 for adolescent counseling in the current budget. This allows funding for only 10 to 11 adults and 13 to 14 adolescents each year. As of February 2002, the program had exhausted all but \$15,000 from its FY 2002 budget for adult treatment and half of its budget for adolescent treatment. In FY 2001, the program had to cut people off during the last four to five months of the fiscal year. Tribal members who are not able to obtain a referral from the Tribal program must try to obtain services through the State program, for which there is a long waiting list. (Bearcomesout, 2-26-2002).

Program administrators believe that the Tribe strongly needs an on-Reservation in-patient treatment facility. The existing out-patient facility is also inadequate as it operates out of a double-wide trailer. Substantial physical improvements are needed for the program to be fully accredited. The proposed juvenile facility in Busby may help address this need if it is constructed. (Bearcomesout, 2-26-2002).

Environmental Health Services. The Tribe's Board of Health and IHS jointly operate an environmental health and sanitation program which provides technical assistance to Reservation residents in addressing environmental health problems and in preventing these problems from occurring. The program has a staff of two, including the Tribal sanitarian and an environmental health technician. The program conducts inspections of food service operations, schools, child care facilities and group homes, as well as recreational sites such as PowWow grounds, parks, and picnic areas. In addition, the

program monitors drinking water systems, septic systems, and solid waste disposal sites. The program also helps to coordinate the response to petroleum product and hazardous materials spills. It is responsible for vector control, including rabies investigations and mosquito control. (NCT Environment Health Services, 2000).

Approximately 25 percent of all private septic systems on the Reservation are failing. The septic system for a day care center in Lame Deer is leaking and polluted water is running down the street. Inadequate resources are available to address these serious sanitation deficiencies. The IHS funds the initial construction of new septic systems for Tribal housing projects. However, IHS provides no funding for the upkeep of these systems or rehabilitation of failing systems. The upkeep of these systems is the sole responsibility of the home owner. Most septic systems have only a 20 year life before needing repair or replacement. (LaRance, 1-23-2002).

The Tribe's Environmental Health program has the resources only to monitor the status of septic systems and provide technical assistance to the owners of these systems. It has no resources available to underwrite the repair of these systems. In addition, the Tribe has no Health Code which would allow the Tribe to regulate private septic systems on the Reservation. (LaRance, 1-23-2002).

The Tribe is not well equipped to respond to spills of hazardous materials or petroleum products. The Tribe has no spill contingency plan. Although the Tribe has formed a Tribal Emergency Response Commission (TERC), the TERC is unfunded and has no professional staff. In practice, spill response is handled on an ad hoc basis by the Tribe's inadequately trained volunteer fire department and BIA road maintenance crews. Spill clean-up is contracted out to a firm in Billings through the Montana State Highway Department. (Soldierwolf, 1-23-2002; LaRance, 1-23-2002).

Medical Transportation. The Tribe's Board of Health operates a medical transportation program which provides some free medical transportation to Tribal members. Its total budget for FY 2002 is only \$63,587 which means that this service must be rationed to those in the greatest need. The program's first priority is the transport of patients who need dialysis treatment. Transportation is available six days per week to and from dialysis centers on the Crow Reservation and in Billings. The program's second priority is transportation for IHS Contract Health services. Transportation service is provided two days per week unless IHS requests transportation on a different day. Transportation is also provided to patients referred by an IHS physician for urgent medical treatment at off-Reservation facilities. In addition, discharged patients may be transported from off-Reservation hospitals back to their homes on the Reservation if requested by IHS. The last priority is transportation of patients needing specialty care at the Health Center. The program provides transportation service in these cases only with a physician referral. (Gray, 2-26-2002; NCT Medical Transportation, 2000).

Due to budgetary constraints, the program no longer provides transportation to patients to the Health Center for medical appointments. The program also does not provide transportation for patients without appointments needing ambulatory care or persons requiring urgent care at the emergency room. These patients must provide their own transportation or rely on the Tribe's ambulance service. (Gray, 2-26-2002; NCT Medical Transportation, 2000).

The medical transportation program operates with 24 vehicles owned by the United States General Services Administration. One of these vehicles is stationed at Ashland and another at the Busby School where public health nurses have been stationed. The office has two permanent employees and 18 contract drivers who are employed on an on-call basis only. (NCT Medical Transportation, 2000).

In FY 2000, the medical transportation program carried a total of 6,010 patients. This included 1,568 patients transported for dialysis treatment, 479 trips for contract health services, 2,074 patients transported to on-Reservation medical appointments and 1,119 patients transported to drug and alcohol treatment programs. As noted earlier, however free transportation for most on-Reservation medical appointments and drug treatment is no longer available. (Gray, 2-26-2002; NCT Medical Transportation, 2000).

VI. Education.

A. Head Start.

The Tribe administers an on-Reservation Head Start program which is funded by the Administration for Children, Youth and Families, an agency of the United States Department of Health and Human Services, with a substantial in-kind match provided by the Tribe. Federal funding for FY 2002 is projected to be approximately \$1.8 million. Funding levels are set according to a formula based on program enrollment which is updated annually. Additional funding of approximately \$168,000 will be contributed by BIA under a 638 contract for the purpose of providing Head Start services to children with disabilities. (NCT, 2001b; Matas, 2001).

Head Start is a comprehensive child development program, which serves children from birth through age 5, pregnant women and their families. The Tribe's program is open to all Reservation households, both Indian and non-Indian, earning less than 250 percent of the federal poverty level. (Matas, 2001; Robb, 1-09-2002).

The Tribe operates eight Head Start centers, six in Lame Deer and one each in Busby and Ashland. Children from Birney are bussed to one of the Lame Deer centers. Each center operates a six hour per day pre-school program. In recent years, participation in the Head Start pre-school program has grown rapidly. The Tribe's Head Start program employs approximately 50 permanent staff. An additional 50 people are employed on a temporary or contract basis. Approximately 95 percent of the staff is Native American. (Robb, 1-09-2002).

Approximately 160 pre-school students are enrolled in the program, compared to only about 90 two years ago. The program is funded to serve up to 179 students. Although there is still excess capacity in the overall program, there may be waiting lists for enrollment in the Busby and Ashland centers. Parents with children on waiting list must provide their own transportation to get their children to another center. (Robb, 1-09-2002).

In addition to the pre-school program, Head Start participates in an early childhood screening program which funds development screening for children between the ages of 0 and 3. Tribal Head Start also operates a nutrition program which provides children with breakfast, lunch and snacks, and a dental education program. In partnership with the IHS, Tribal Head Start administers the "Healthy Children, Healthy Families, Healthy Communities" program to address diabetes among Head Start children, families, and staff. Northern Cheyenne children enrolled in Head Start suffer from obesity at a rate three times the average rate for other Indian children, which makes them vulnerable to diabetes later in life. This high rate of obesity is directly related to the high rate of poverty on the Reservation and the lack of availability of healthy foods. (Robb, 1-09-2002).

Head Start has also started a partnership with Chief Dull Knife College to develop a model program for identity-based education. The three-year grant of about \$450,000, seeks to involve the community in educational policy and procedures and strengthen the social competence of children and families through increased focus on Cheyenne history, language and culture. (Robb, 1-09-2002).

B. Primary and Secondary Education.

Lame Deer High School. The Lame Deer School was established by the United States government in 1890 and is now a State-chartered school district. For many years, the district was solely an elementary school district which encompassed the on-Reservation communities of Lame Deer, Muddy Cluster and Birney. The current elementary school was constructed in the 1950s. Improvements to the elementary school were made in the 1980s using approximately \$5 million in funds received from the Montana Coal Board. These improvements included the addition of five new classrooms, renovation of several additional classrooms, and construction of a new gymnasium, library, and 12 teacher housing units. (Feeney, 1986).

In 1991, Reservation residents filed petitions with the Superintendents of Schools of Rosebud and Big Horn Counties to establish a high school in Lame Deer. The proposed high school district was much larger than the elementary school district and included not only the Northern Cheyenne Reservation but also the off-Reservation communities of Ashland, Birney, and Kirby. The County Superintendents denied the petitions, but in 1993 the State Superintendent of Public Instruction reversed these decisions and issued an order creating the Lame Deer High School District. *Hayes v. Lame Deer High School Dist.*, 303 Mont. 204, 15 P.3d 447 (2000).

The Lamé Deer High School opened in 1994 in portable classrooms. Construction of a permanent high school just south of Lamé Deer was completed in 1997. Funding for the construction of the new high school was provided by Congress through a redirection of approximately \$8 to \$9 million in unexpended Federal Impact Aid dollars. These funds are used to compensate local communities for the loss of property tax revenues due to federal land ownership. The Tribe donated the land for the school to the Lamé Deer High School District. (Williams, 1-09-2002).

Formation of the Lamé Deer High School District was highly controversial and resulted in lawsuits from off-Reservation communities seeking to be excluded from the new district. In 1994, individuals in these off-Reservation communities petitioned their County Superintendents requesting transfer of territory from the Lamé Deer High School District to the Colstrip and Hardin School Districts. The County Superintendents granted these petitions. The Lamé Deer School District appealed these decisions to the State Superintendent of Public Instruction who reversed the County Superintendents' decisions. Court appeals by the off-Reservation communities were finally resolved by the Montana Supreme Court in the Lamé Deer School District's favor in December 2000. *Hayes v. Lamé Deer High School Dist.*, 303 Mont. 204, 15 P.3d 447 (2000). The off-Reservation communities remain within the Lamé Deer high school district today. (Williams, 1-09-2002).

Notwithstanding the inclusion of non-Indian communities within the high school district, the school's student body is almost entirely Native American. Less than two percent of the students in the high school are non-Indian. Non-Indians within the district typically send their children to the off-Reservation high school in Colstrip. However, they no longer receive free transportation outside the district as a result of an injunction obtained by the Lamé Deer High School District in February 2001 which bars other school districts from picking up students within Lamé Deer School District's boundaries. (Williams, 1-09-2002).

Funding for the operation of the Lamé Deer schools comes primarily from aid provided by the State and federal governments. The State provides direct aid to the school district based on the student population. State aid in the current school year amounts to \$961,000 for the high school and \$1.63 million for the elementary school. The Federal government also provides impact aid funding to the school district to compensate for the large amount of Federal land ownership in the district. The amount of Federal aid is related to both the school population and amount of the Federal lands within the district. This aid totals approximately \$1.1 million for the high school and \$1.5 million for the elementary school. (Mont. Office of Public Instruction, 2001; Williams, 1-09-2002).

The Lamé Deer schools have a very small tax base due to the large amount of non-taxable, Federally-owned trust land within district boundaries. The elementary school district has a taxable property base with a total assessed valuation of only \$221,000 and will derive only \$12,300 in property tax revenues in the current school year (about 0.3

percent of total revenues). The high school district currently has a taxable property base of \$1.38 million and will derive about \$48,000 in property tax revenues in the current year (about 2.3 percent of total revenues). (Mont. Office of Public Instruction, 2001).

In addition to these sources of federal funding, in 2001-02 the Lame Deer schools will receive federal grants of approximately \$286,000 under Title I of the Elementary and Secondary Education Act (Indian Education), another \$136,000 under Title IX of the Act (Disadvantaged/Remedial), and \$95,000 in funding for Part B special education. All of these programs are funded on the basis of student need. In addition to this additional federal funding, the district will receive about \$140,000 in State aid for transportation. This funding is determined based on ridership and miles traveled. (Mont. Office of Public Instruction, 2001; Williams, 1-09-2002).

Finally, the Lame Deer schools also will receive an annual \$400,000 grant from the United States Department of Education's 21st Century Learning Center. This money was awarded based on a competitive grant process and is being used to keep school facilities open after hours, support an alternative education program and fund a summer school. After next year, however, the money will flow through the State of Montana and the amount of the award will be reduced substantially to \$25,000. (Williams, 1-09-2002).

Teacher salaries in the Lame Deer schools range from a starting salary of about \$21,500 to a maximum of \$40,300. These salaries are comparable to those paid in the Colstrip schools and are above the State average. The average class size is 14 students in grades K-5. The student body is almost uniformly poor with 94 percent of the students qualifying for free or reduced-cost school lunches. (Williams, 1-09-2002).

Current student enrollment in Lame Deer schools is 420 students in grades K-8 and about 220 in grades 9-12. Of these, about 60 students are enrolled in a newly established alternative school. High school enrollment has more than doubled over the past few years as a result of the District's policy of barring busses from the Colstrip School District from picking up children within Lame Deer district boundaries. The Lame Deer schools currently have no capacity to absorb additional students. (Williams, 1-09-2002).

The Lame Deer schools offer cultural programs including a required course in Tribal history and government as well as elective culture and language classes. Nevertheless, the entire school administration and a majority of the faculty is non-Indian. Only 25 percent of the high school faculty is Native American and this percentage drops to 10 percent or less in the elementary school. The district hopes to increase its Native American hiring. There is one fully certified Northern Cheyenne faculty member who teaches at the high school and another three Northern Cheyenne teachers at the elementary school. Language classes are taught by specially certified native Cheyenne speakers. (Williams, 1-09-2002).

Student achievement within the Lama Deer schools has been poor in comparison to State norms and even in comparison to other predominantly Native American schools. The Lama Deer schools are the lowest scoring schools in the State of Montana as measured on State standardized tests. In grades 1 through 6, 65 percent of student test scores in reading and math fell in the lowest achieving range and 89 percent fell below the 50th percentile. For high school students, similar results were reported. Average scores for 4th, 8th and 11th graders were well below the 50th percentile for both math and reading. The Lama Deer school has been placed on "school improvement" status until aggregate student scores improve to a 45 percent level over a two-year period. (Matas, 2001; Williams, 1-09-2002).

Under new education reform legislation recently enacted by Congress, the Lama Deer school district could be disbanded and taken over by the State if test scores do not improve to the 45 percent level in the next three to five years. The district has received a Comprehensive School Reform Grant of \$240,000 from the Federal government to assist in raising achievement levels. This money is being used for staff development and to fund a reading program. At least some hope of future improvement can be found in the fact that the district's 1st grade students recently averaged at the 58th percentile on the national Terra Nova test. (Williams, 1-09-2002).

The high school graduation rate is currently about 71 percent. This is down significantly from the rates of 86 to 80 percent reported in 1997-98 and 1998-99 respectively. The drop out rate continues to be high. However, the school district is taking steps to reduce the drop out rate including the establishment of an alternative school funded through the 21st Century Learning Center. This includes a program of computer assisted learning, elective credits, and a less structured environment. The alternative school appears to be improving the high school retention rate and has resulted in increased school enrollment. (Matas, 2001; Williams, 1-09-2002).

Busby School. The Busby school was founded by the Bureau of Indian Affairs in 1904 and was operated by the BIA until 1972 as a K-12 day and boarding school for Indians. Since 1972, the Northern Cheyenne Tribe has administered the school under a 638 contract with the BIA. The Tribe's 638 authority has in turn been delegated to an elected school board. In the past, the school has suffered from severe physical deterioration and neglect. The dormitories were closed in 1981 because of their dilapidated and vandalized condition. The high school was closed in 1982 following findings by the IHS of serious health code violations and the loss of high school accreditation, mainly due to health and safety problems. (Feeney, 1986:6-29).

Although the school has regained its accreditation, infrastructure problems have only been partially addressed since the 1980s. The boarding school has not reopened. School buildings have undergone partial renovations since the 1980s but still pose many safety hazards, including the presence of asbestos. High school classes are still held in the same school building as the elementary school. There is little room for programs in home economics and industrial arts which are required for State accreditation. In 1998,

the school gym and administration building were destroyed by fire. Work is presently underway on a new gym and administration building and is projected for completion by September 2002. Funding for these construction projects has come entirely from insurance proceeds and the BIA Office of Facilities Management. The Busby School has received no construction funds from the Montana Coal Board. The school's most pressing infrastructure needs are renovations of classrooms and bathrooms in the existing school building and the construction of a separate high school. (Granbois, 3-01-2002)

Since about 1997, the Busby School's operating expenses have been funded by an annual grant provided by the BIA's Office of Indian Education under Pub. L. 100-297, rather than through a 638 contract. The school also receives grants for special education and gifted students from the United States Department of Education. The grants under Pub.L. 100-297 provide greater flexibility to Indian schools in the use of Federal moneys than a 638 contract. Grant amounts are based on the number of students enrolled in the last week of October. The grant for the current school year is approximately \$2 million, down from about \$3 million in the 2000-01 school year. The Busby school receives no State funds for operation and maintenance. (Granbois, 3-01-2002).

The decline in Federal funding for FY 2002 is the result of declines in student enrollment. The October 2001 enrollment was 221 students, down from 298 students in 2000 and 285 students in 1999. Declining enrollments are attributable to deterioration of facilities and the Busby's School's lack of amenities, such as sports programs and facilities. About half of the total student body lives on the Crow Reservation and about two-thirds of high school enrollment is from the Crow Tribe. Many of Busby's Northern Cheyenne students have transferred to the State-funded Lame Deer schools. The student body is very poor with about 97 percent qualifying for free or subsidized student lunches. (Granbois, 3-01-2002).

The Busby school has 16 certified teaching faculty, three of which are Native American. Class sizes range from 14 to 22 students in the elementary school and 15 to 30 in the high school. Teacher salaries range from \$21,600 to about \$39,000. The school curriculum includes mandatory instruction in the Cheyenne language in grades K-6 and elective language courses in grades 7-12. Courses in the Crow language are also offered. Cheyenne language instructors are certified through Dull Knife Memorial College. Data on standardized test scores for Indian schools has not been made available by the Montana Office of Public Instruction. School administrators believe that only about 30 to 40 percent of the student body tests at a proficient level. (Granbois, 3-01-2002).

St Labre. The St. Labre Indian School was established in 1884 as part of the St. Labre Catholic Mission in off-Reservation Ashland. The St. Labre mission is a non-profit Catholic charity that is governed by the Catholic Diocese of Great Falls, Montana. St. Labre provides a boarding and day school for grades K-12 at three campuses. The largest facility is located on a well-appointed campus located just off the Northern Cheyenne Reservation in the town of Ashland. Two smaller campuses are located on the Crow Reservation. (Feeney, 1986:6-30; Matas, 2001:70; Yarlett, 1-10-2002).

The operations of the St. Labre school are funded largely by private charitable donations, although the school receives federal money through the subsidized school lunch program. St. Labre conducts an extensive direct mail operation and may be the largest mailer in Montana. It has a total annual budget of \$25 million. St. Labre has approximately 300 employees on the three campuses with about 220 employees at the main campus in Ashland. (Yarlett, 1-10-2002; Alexander, 1-10-2002).

Total student enrollment for the St. Labre school in Ashland is 520 students. Approximately 160 students are enrolled in the high school, approximately 65 percent of whom are Northern Cheyenne. About 30 percent of the high school students are members of the Crow Tribe. Enrollment in the elementary school is approximately 70 percent Northern Cheyenne. About five percent of the student body is comprised of non-Indian children primarily of faculty and staff. (Yarlett, 1-10-2002; Alexander, 1-10-2002).

Tuition is free to all who enroll. St. Labre also provides a free breakfast and lunch to all of its students as well as free transportation. A free dinner is provided to students who board at the school and those with evening activities. (Alexander, 1-10-2002).

The St. Labre school has no admission requirements, although students with more than ten unexcused absences per semester are dropped from the student rolls. Elementary school enrollments are rising rapidly, increasing by 50 students this past year alone. St. Labre administrators attribute this increase in enrollment to the policy adopted by the Lama Deer School District barring school busses from the Colstrip School District from serving the Lama Deer community. Rather than sending their children to the Lama Deer school, many Cheyenne elect to send their children to St. Labre which has a better academic reputation. As a result of these increases in enrollment, St. Labre is no longer able to accept all students who apply. The elementary school is full. This school year, the school was not able to accept the applications of approximately 25 prospective students. (Alexander, 1-10-2002).

The student body is becoming increasingly composed of the least needy and relatively most privileged students on the Reservation. For example, about 75 percent of St. Labre students now qualify for the free school lunch program. While high in relation to State averages, this figure has been dropping and is now substantially less than other schools on the Reservation. This is a concern for St. Labre which sees its mission as providing education to the most needy Indian students. (Alexander, 1-10-2002).

The St. Labre school has 57 certified teachers on staff, six of whom are Native Americans. One elementary school teacher is an enrolled member of the Northern Cheyenne Tribe as are two in the high school. Salaries for teachers range from about \$23,000 to \$48,000, which is somewhat higher than for public schools in the State. (Alexander, 1-10-2002).

The curriculum at St Labre is conventional except for religion classes and mandatory attendance at religious services every other week. The school also offers classes in Native American art, literature, history and government. Cheyenne language instruction is offered in both the elementary school and the high school. (Alexander, 1-10-2002).

The high-school drop out rate is about five to seven percent. A student is counted as dropping out if the student leaves without a request for forwarding of a school transcript. The student transfer rate is high. As a consequence, the high school has 50 freshmen but only 25 seniors. Student test scores at St. Labre are the highest of any Indian school in Montana although they are still below an adequate level. Test scores are higher in the elementary school with K-4 students testing at about grade level. (Alexander, 1-10-2002).

School administrators believe that drugs and alcohol are less of a problem at St. Labre than in Reservation schools. This is partly because the student body at St. Labre is weighted toward children from the most stable families on the Reservation. Overall, drug use seems to be declining among students, although children may be starting to use drugs at an earlier age. (Alexander, 1-10-2002; Yarllett, 1-10-2002)

Off-Reservation Public Schools. A significant number of Northern Cheyenne students attend school in the off-Reservation public schools in Colstrip. Currently, 249 Indian children are enrolled in the Colstrip school system out of a total student enrollment of about 816. Thus, over 31 percent of the enrollment in the Colstrip schools is Native American. Although enrollment statistics broken out by Tribe are not available, it is reasonable to assume that most of the Indian children enrolled at Colstrip are Northern Cheyenne Tribal members. (Nygaard, 1-24-2002).

The number of Northern Cheyenne Tribal members enrolled at Colstrip has remained high despite significant new barriers erected to keep Northern Cheyenne children enrolled in on-Reservation schools. Recently, the Lane Deer School Board exercised its rights under Montana law to disallow students residing within the district from receiving free transportation to out-of-district schools. Thus, Reservation residents must make private transportation arrangements in order to send their children to the Colstrip schools. Northern Cheyenne parents have formed carpools to transport their children to Colstrip and a group of parents even purchased a school bus. (Nygaard, 1-24-2002).

The popularity of the Colstrip schools on the Reservation results in substantial part from the superior facilities and programs offered at Colstrip in comparison to schools on the Reservation. The Colstrip schools are quite well funded. For the 2001-02 school year, the Colstrip school district budgeted \$4,126,445 for its elementary school and \$2,694,742 for its high school. (Colstrip School District, 2002).

The Colstrip school district receives four main types of revenues. Approximately one third of the district's operating revenues come from State dollars that are received by all State school districts in Montana. Another third of the operating budget is generated by local tax levies. Colstrip schools benefit from a substantially larger and more secure tax base compared to other schools in Montana due to the presence of four large coal-fired power plants. Because the lion's share of the assessed valuation in the district is associated with the power plants, the Colstrip school district can generate substantial tax revenues while keeping its tax rates relatively low. The final third of the district's operating budget is non-levy revenue. An important portion of this non-levy revenue comes in the form of federal impact aid which the district receives in part due to its large enrollment of children from the Northern Cheyenne Reservation. (Colstrip School District, 2002; Nygaard, 1-24-2002). Finally, the Colstrip schools receive construction funding from the Montana Coal Board. As of 1985, the Colstrip school system had received over \$8 million in funding from the Coal Board for new school facilities and equipment. (Feeney, 1986:6-31).

Currently, the major problem at Colstrip is declining enrollments which have resulted in a decline in State school support dollars. Since 1990-91, total enrollment has dropped from 1,400 students to just under 816 students today. Declining enrollments are attributable in large part to the boom and bust cycle of energy development. Because there has been little new energy development at Colstrip since the late 1980s, the transient population has moved elsewhere and the remaining population is ageing and producing fewer school-aged children. The Colstrip school district is currently closing one of its schools and has been laying off teachers in response to funding shortages resulting from declining enrollment. (Colstrip School District, 2002; Nygaard, 1-24-2002).

C. Post-Secondary Education.

Dull Knife College. The Tribal Council chartered Dull Knife Memorial College ("CDKC") in 1975 and changed its name to Chief Dull Knife College (CDKC) in 2001. Its original program was to provide vocational training for mining-related jobs in communities near the Reservation. Academic courses were first offered in 1978. CDKC has greatly expanded its curriculum since that time and now offers Associate of Arts degrees in general studies, early childhood education, special education, agriculture, biology/pre-med, Native American studies, and computer science. Dull Knife also offers Associate of Applied Science degrees in office management and business. (Feeney, 1986:6-31; CDKC, 2001a).

CDKC operates on a small campus just east of Lame Deer. The heart of the campus is three interconnected buildings with approximately 27,000 square feet of classrooms, laboratories and offices. There is also an auditorium, a distance learning lab where students can take televised classes, a cafeteria, a bookstore, and the Tribal business information center. A separate building houses the student lounge, a computer-

equipped classroom and additional office space. Another building of about 2,500 to 3,000 square feet houses the Woodenlegs Library. A newly renovated building of about 5,000 square feet is the site of the Cultural Center.

CDKC's general fund budget for FY 2002 is \$1.65 million and is funded primarily by the BIA. The largest source of funding (\$656,000) is provided under a 638 contract between BIA and CDKC which is used to pay faculty salaries. Funding under the 638 contract is based on proposals submitted by the college to the BIA and does not automatically increase with the level of enrollment. Another \$539,000 is provided by the BIA's Office of Post-Secondary Education under the federal Tribally Controlled Colleges or Universities grant program, Pub. L. 95-471, 25 U.S.C. §§ 1801 *et seq.* Funds awarded under the Tribally Controlled Colleges grant program are awarded on the basis of a formula which takes into account the number of Indian students enrolled in the college. Total enrollment at the college is currently 198 students. Eighty-nine students are enrolled full time and 109 students are part time. (CDKC, 2001b; Cattrell, 1-09-2002).

Enrollment is open to both Indians and non-Indians. Approximately 15 to 17 percent of the student body is non-Indian. CDKC is supposed to receive \$1,500 from the State of Montana for each non-Indian student enrolled on a full-time equivalent (FTE) basis. However, the State Legislature does not always fully fund this obligation. For FY 2002, funding from this source is projected to total \$31,500. CDKC's operating expenditures typically range from about \$9,500 to \$10,500 per FTE. This is about \$2,000 higher than the national average expenditure for community colleges and is attributable in part to the College's geographic isolation and the region's relatively cold climate. The nearest off-Reservation community colleges are in Miles City and Sheridan, Wyoming. (CDKC, 2001b; Cattrell, 1-09-2002).

The college also receives revenues from tuition payments which are set at \$60 per credit hour. Tuition waivers are given to Tribal elders and college staff. CDKC also charges rent to a food concessionaire who operates the school's cafeteria. CDKC expects to receive approximately \$190,000 from tuition and rents in FY 2002. (CDKC, 2001b; Cattrell, 1-09-2002).

In addition to its general fund budget, CDKC obtains substantial additional funding for special projects. In FY 2002, special project funding is projected to total \$3.08 million. The largest single source of funding is a one-time capital construction grant of \$1.3 million provided by the Lilly Foundation which was used for building renovations and the new Cultural Center. (CDKC, 2001b; Cattrell, 2-25-2002).

CDKC is considered a land grant college and will receive approximately \$400,000 from the Department of Agriculture's \$50 million annual appropriation for Indian colleges. This funding is used to operate an agricultural extension office, help fund the distance learning center which offers televised agriculture courses, and support the Tribal business information center. (CDKC, 2001b; Cattrell, 2-25-2002).

CDKC also receives other grants from the Federal government for such programs as special education. Finally, CDKC receives grants from private foundations, which include a \$100,000 grant from the Packard Foundation to support science internships and a grant of \$254,000 from the National Science Foundation's Rural Systemic Initiative earmarked for programs to teach elementary and secondary school teachers about how to teach science to students. (CDKC, 2001b; Cattrell, 2-25-2002).

CDKC operates a scholarship program which is funded by a \$50,000 grant from the American Indian College Fund and about \$90,000 to \$100,000 per semester in assistance from the Federal Pell Grant program. Other small amounts of scholarship money are available from private sources and is available from year to year. The college also receives money to operate in-house and Federal work study programs. (Cattrell, 2-25-2002).

As indicated above, CDKC operates the Tribal Business Information Center ("TBIC"). The TBIC has operated for about four years and is funded by a \$48,000 Department of Agriculture grant and with sporadic additional support from the U.S. Small Business Administration. The TBIC serves as a resource to Tribal members hoping to start businesses on the Reservation. It includes a reference library on business, internet access, and technical assistance with the development of business and marketing plans. The program has helped about six or seven Tribal members start functioning businesses since its inception. There is currently no coordination between the TBIC and the Tribe's Economic Development office. (Cattrell, 2-25-2002).

CDKC operates the Woodenlegs Library which has been designated as the Tribal library and is a very important community resource. Like the college itself, the library is funded primarily by the BIA under Pub. L. 93-638 and the Tribally Controlled Colleges grant program, Pub. L. 95-471. The library is generally open to the public although it is closed in August and on all evenings and weekends. The library has a large archival collection relating to Cheyenne history, language and culture and acts as a repository for Tribal oral histories. CDKC also operates a profitable on-campus bookstore which is used to subsidize the operations of the College's day care center. (Cattrell, 2-25-2002).

Scholarship Program. The Tribe administers a college scholarship program which is funded by the BIA under a 638 contract with total funding in FY 2002 of \$420,000. The Tribe supplemented the BIA funding with \$50,000 from its General Fund in FY 2001 but Tribal funding was eliminated in FY 2002. (NCT, 2001b) The St. Labre School also operates a college scholarship program for its own graduates. Approximately 25 to 30 Northern Cheyenne are receiving college scholarships under the St. Labre program, with awards ranging up to \$4,000. St. Labre also operates a mentor program for St. Labre graduates who are attending college to provide support and increase retention rates.

VII. Social Services.

Responsibility for providing social services on the Reservation is fragmented among a number of Tribal programs and the State of Montana. Social welfare programs originating with the BIA are administered by the Northern Cheyenne Social Services Department under a 638 contract with a total budget of approximately \$1 million. These include an Indian cash assistance program ("General Assistance") and several programs relating to the care and protection of children. The State of Montana runs the major national welfare programs on the Reservation including the Temporary Aid to Needy Families ("TANF") and Food Stamps programs. The Tribe operates a commodities program, a low-income energy assistance program, and programs to assist Tribal elders. For the purpose of this discussion, social welfare programs on the Reservation are described by category, rather than by agency. Five categories of social welfare services are discussed: cash programs, energy programs, food programs, child welfare programs, and elder programs.

A. Cash Assistance.

General Assistance/Tribal Work Experience Program. The Tribe's Department of Social Services administers the General Assistance program under a 638 contract with the BIA. General Assistance provides financial assistance to needy Native Americans living on or near the Reservation who meet income guidelines set out in BIA regulations, but do not qualify for other welfare programs such as TANF, the main national welfare program. Native American people who have been sanctioned for failure to fulfill TANF work requirements are ineligible to receive General Assistance payments from the Tribe. Non-Indians are not eligible to participate in the General Assistance program. (Matas, 2001:61; NCT Social Services Department, 2002).

Like other cash assistance programs in the era of welfare reform, General Assistance recipients must now work 40 hours per week to receive their monthly benefit of \$285. Recipients needing to fulfill these requirements are placed with Tribal programs and enterprises. Recipients may fulfill their work requirements by providing assistance to elders or by providing child care for other General Assistance or TANF recipients. General Assistance recipients may also fulfill their work requirements by studying for a GED in the Adult Education program at Dull Knife College. (NCT Social Services Department, 2002; Shoulderblade, 1-23-2002).

The Tribal Work Experience Program ("TWEP") is administered by the Tribe's Department of Social Services. Under TWEP, the Tribe is able to provide an additional \$115 per month work-incentive bonus to General Assistance recipients who fulfill their work requirements. (Shoulderblade, 1-23-2002).

The Tribe is required by its 638 contract to impose sanctions on General Assistance recipients who fail to meet the program's work requirements. Under the mandatory sanctions regime, General Assistance recipients are suspended from the General

Assistance program for 30 days the first time they fail to meet their monthly work requirement, 60 days for the second offense, and 90 days for the third offense. (Shoulderblade, 1-23-2002).

General Assistance case loads have dropped dramatically in recent years. The current case load is only 63 clients. This is down from 3304 clients in 1993 and 843 clients in 2000. The Social Services Department attributes the sharp drop in case load to two major factors. First, TANF rules now allow men and couples with children to receive welfare benefits. This has expanded the number of Indians on the Reservation who are eligible to receive TANF assistance and thereby reduced the number of people qualifying for General Assistance. Second, a large majority of former General Assistance recipients have been unable or unwilling to satisfy the new mandatory work requirements and have dropped out of the program. Lack of transportation and affordable child care are the two main reasons why recipients have been unable to meet the work requirements. (Matas, 2001:61; NCT Social Services Department, 2002; Shoulderblade, 1-23-2002).

General assistance is not an entitlement program. Program funding levels are set by Congress and then allocated among different Tribes has the BIA according to Reservation population and other factors. Where funds are insufficient, benefits can be cut or eligibility criteria tightened. For example, four years ago the Tribe eliminated employable 18-year olds living at home from the program due to a shortage of funds. Estimated annual expenditures for FY 2002 for both General Assistance and TWEP will be \$217,000. These funds should be sufficient to meet the current case load which has been reduced by work requirements and changes in eligibility criteria. (Matas, 2001:61 NCT Social Services Department, 2002; Shoulderblade, 1-23-2002).

Temporary Aid to Needy Families. The Temporary Aid to Needy Families ("TANF") was formerly known as Aid to Families with Dependant Children ("AFDC") and provides cash assistance to low-income families with dependant children. The program is administered by the Montana Department of Public Assistance, which has a part-time office in Lame Deer. With the advent of welfare reform, federal law requires recipients to meet strict work requirements in return for cash assistance. Single recipients must work 30 hours per week and recipients in two parent households must work 35 hours per week.

The Tribe's Job Training office operates a program funded by the United States Department of Health and Human Services that is charged with administering the TANF work requirements for all Tribal members living on the Reservation. The program is staffed by a quarter-time director and a full-time case manager. In addition to enforcing the TANF work requirements, the office also attempts to place TANF recipients in employment with various tribal programs and enterprises. (Whitewolf, 1-08-2002).

The Tribe's Job Training office administers TANF requirements using the following protocol. The office will first send a warning letter to Tribal members who do not comply with TANF work requirements giving them ten days to come into compliance. If there is no compliance, a second letter is sent. Failure to comply after the second letter may result in a sanction terminating the offending parent's portion of the TANF benefit for 30 days.

The next sanction terminates the parent's portion of the TANF benefit for six months, and the third sanction terminates assistance for a year. The Tribal program is charged with a duty to report all instances of TANF non-compliance to the State for imposition of the sanctions. (Whitewolf, 1-08-2002).

Welfare Reform. At the same time the Tribe is operating a program to administer the TANF work requirements, the Tribe's Department of Social Services is administering a program funded by the State of Montana to provide assistance to TANF recipients who must meet the new requirements of welfare reform. The program employs a social worker who acts as an advocate for recipients who are threatened with sanctions and provides transportation to ensure that recipients make their appointments at the welfare office. Funding for this program is discretionary and will be cut from \$100,000 to \$47,000 in 2002. (Shoulderblade, 1-23-2002)

The Tribe's Social Services Department believes that welfare reform on the State and national level will soon begin to affect social services on the Reservation. Many Indians living off the Reservation will soon be subject to the five-year lifetime cutoff for TANF benefits. However, Indians living on or near the Reservation are exempt from the lifetime cutoff. As Tribal members living off-Reservation reach the cutoff point, they will have an incentive to return to the Reservation in order to continue receiving welfare benefits. If this occurs, it will increase the burden on already overtaxed Reservation services such as housing, health care, criminal justice and education, among others. (Shoulderblade, 1-23-2002).

B. Energy Assistance.

A majority of Reservation households live in modular homes constructed by federal housing programs 20 to 30 years ago. These homes were not designed for the cold winters prevalent in Montana. Most of the houses were built with 1/4-inch roof underlayment and do not have proper insulation in the walls. Houses built during the 1970s generally have propane heat. Houses built after the 1970s all have electric heat, with the majority using baseboard heat. In the winter of 2000-01 propane cost up to \$1.79 per gallon and the average monthly electric bill was \$90 per month. (NCT LIHEAP, 2001b: 9, 11).

Low Income Home Energy Assistance Program. The Tribe administers a Low Income Home Energy Assistance Program ("LIHEAP") which is funded by the United States Department of Health & Human Services. The program provides energy assistance to households with income levels below 150 percent of the poverty level. Households in which one or more individuals receive welfare benefits from the State, supplemental security income payments, or food stamps are automatically eligible to receive benefits. The benefits provided by LIHEAP are set on a sliding scale depending on income and household size. Maximum benefits are \$695 per heating season for households with propane, 70 percent of the electricity bills for households with electrical heat, and free wood for households heating with wood. The program also provides crisis assistance to

persons needing window or furnace repairs, space heaters, or one-time assistance to those without fuel or facing immediate shut off of electrical service. At least 40 electrical meters were shut off during the winter of 2000-01 for non-payment. (Manley, 1-08-2002; NCT LIHEAP, 2001a; NCT LIHEAP, 2001b:11).

In FY 2001, LIHEAP received federal funding of \$222,507 and the Tribe contributed an additional \$15,000 from the Tribe's General Fund. Eighty-eight percent of the program's federally funded budget is allocated to reimbursement of heating costs, two percent to energy crisis assistance and ten percent to administrative costs. All of the Tribal funding is devoted to energy crisis assistance. The level of federal funding is based on the Reservation's low income population as determined by United States Census data. The program assisted over 230 households in 1997-98, 248 households in 1998-99, and 391 households in 1999-2000. Given the large household size on the Reservation, this means that the program may serve as many as 1,500 to 2,000 people on the Reservation. (NCT LIHEAP, 2001a; NCT LIHEAP, 2001b:15).

Funding is not adequate to meet the need for energy assistance on the Reservation. In 1999-2000, 120 households were denied regular assistance due to incomplete applications or exhaustion of funds and the Tribe provided emergency energy assistance to over 130 households. During the winter of 2001-02, approximately 20 households were denied assistance in the first two weeks after the December 2001 cut-off date for eligibility had passed. Case loads have increased substantially in recent years, but funding levels have not kept up with demand. The program is not able to service further increases in the number of eligible households without new funding. (Manley, 1-08-2002; NCT LIHEAP, 2001b).

REACH Project. In 2001, the Tribe's LIHEAP program was awarded a 17-month REACH grant of \$150,000 by the United States DHHS. The program will install energy efficient lighting, replace old thermostats and furnaces with new energy efficient models and provide weatherization assistance. The program will also replace other energy consuming appliances such as ranges and refrigerators. Native American households which are eligible to receive LIHEAP funding will be eligible to receive special assistance under the REACH program. Most of the Reservation population is not yet aware of this special program so participation is still low. (Manley, 1-08-2002; NCT LIHEAP, 2001b).

C. Food Assistance.

Commodities. The Tribe runs a Commodities program which is funded by the United States Department of Agriculture ("USDA") through the State of Montana Food Distribution Office. Although the Tribe would qualify for direct federal funding as an Indian Tribal Organization, the Tribe still submits its budget requests to the State's Food Distribution Office which then passes the request along to the USDA as part of the State's overall budget request. The Tribe's program administrator believes that his funding requests are often reduced by the State before submission to the federal government. (Russell, 1-24-2002).

USDA funding is based on a formula which takes into account the projected participation in the program. In order to receive these Federal dollars, the Tribe makes a 33 percent hard dollar match from its General Fund. The current budget for the program is \$178,730, which includes \$59,700 contributed by the Tribe. Funding is used to cover the costs of distribution and program administration. The commodities themselves are provided by the USDA. (Russell, 1-24-2002).

Native Americans living on or near the Reservation are eligible to participate in the program if they meet income eligibility guidelines. Unlike General Assistance, TANF, or Food Stamps, there is no work requirement. Up to 72 items are available including canned vegetables, meats and fruit, cereals, frozen meats, some fresh vegetables and fruits. The quality and variety of foods has improved in recent years. Commodities are distributed daily in Lane Deer, except during the last three days of the month. The program makes deliveries to elderly and handicapped recipients in outlying areas. Commodity distributions meet USDA guidelines, but no special guidelines are followed when serving individuals with special dietary needs. (Russell, 1-24-2002).

A total of 698 individuals currently receive commodities from 198 total households. This number ranged as high as 901 individuals in 1999-2000. A total of 238 households have been certified as eligible to receive commodities. This compares to only 46 eligible households certified in 1990. The dramatic increase in participation in the Commodities program has been attributed to increasingly stringent eligibility requirements for other welfare programs such as General Assistance, TANF and Food Stamps. Needy Tribal members who are unable to meet Federal and State eligibility requirements have turned to the Tribe's Commodities program as a safety net of last resort. (Russell, 1-24-2002 Matas, 2001:63).

Community Service Block Grant. During FY 2001, the Tribe administered a Community Service Block Grant of \$38,000 which was awarded by the United States Department of Health & Human Services. Moneys from the block grant program are used to alleviate barriers to access to other assistance programs and to provide emergency food vouchers to any needy Indian household on the Reservation whose welfare payments have been terminated or are insufficient, and which has applied for but not yet received food stamps or commodities. Typically, this provides assistance to households on fixed incomes during the third or fourth week of the month when money from welfare or Social Security payments has run out. The food vouchers range from \$15 for a household with one to three members to \$35 for a household with five members. Approximately 100 households participate in the program in a given month. Funding is inadequate to meet the demand for this program, forcing program administrators to rotate clients through the program every two months. The program director reports that the case load has doubled over the past three years, perhaps because of the large number of households that have been dropped from cash assistance rolls. (Manley, 1-08-2002).

D. Child Welfare.

Child Protection. The Tribe's Social Service Department operates a Child Protection program which is funded under a 638 contract with the BIA. The Child Protection program is charged with the responsibility of investigating all reports of child abuse or neglect. If abuse or neglect is found, a Child Protection Worker ("CPW") will remove the child from the home and place the child in protective custody. If the child is aged 12 or under, he or she will be placed in protective custody at the Rosebud Emergency Shelter. The Rosebud Shelter only has room for 6 children, so if the shelter is full or the child is over 12, the child will be temporarily placed in foster care. Once the child is in protective custody, the CPW will then prepare a "child in need of care" petition for submission to the Tribal Court. Such petitions must be filed within 72 hours of the child's removal from the home. (Shoulderblade, 1-23-2002).

Child Protection has funding for only one CPW. The CPW is responsible for an extremely heavy case load. During FY 2000, there were a total of 465 child abuse and neglect cases referred to Social Services. More specific information is available for the second quarter of 2001. During that quarter there were 136 child abuse and neglect referrals. Of these, 22 involved allegations of physical abuse and 15 involved allegations of sexual abuse. Twenty-two of these reports were found to be substantiated. "Child in need of care" petitions were filed in eight cases. When the CPW is occupied with another case or is unavailable, child protective services are provided by a Child Welfare case worker. This added emergency responsibility means that Child Welfare workers are less available to perform more routine monitoring and counseling functions. (Matas, 2001:62; NCT Social Services Department, 2001c; Shoulderblade, 1-23-2002).

Child Welfare. The Tribe's Child Welfare program is responsible for on-going case management once a child is removed from the home by a Child Protection Worker and becomes a ward of the Court. The Child Welfare program will find a placement for the child, either in a foster home or in a residential facility, and will provide monitoring of the child while in foster care. The Child Welfare program also provides monitoring and counseling for children who have been returned to the home under a service treatment agreement. The program is responsible for reimbursing foster parents for their costs. Reimbursement rates range from about \$15 to \$18 per day. (Shoulderblade, 1-23-2002).

There is no foster care on the Reservation for children with special needs, because no foster parents on the Reservation are currently trained to handle special needs children. In addition, there are no on-Reservation residential care facilities. The nearest facility is in Billings. Children without special needs are typically placed in foster care with relatives. However, the Tribe can pay foster parents who are relatives for no more than 30 days. Relative who wish to continue receiving foster care payments after this time may receive payments from the Title IV(e) program but only if they are eligible to receive welfare benefits under TANF. These requirements act as a disincentive which works against keeping children in their extended families and are inconsistent with Cheyenne cultural norms. (Shoulderblade, 1-23-2002).

The Tribe's Child Welfare program has funding for only two Child Welfare case workers. The case load is extremely heavy. For example, during the second quarter of 2001, each Child Welfare case worker handled about 25 to 30 different cases each month. One case may involve more than one child if several children are subject to abuse or neglect in a single home. During this period, one Child Welfare case worker managed an average of 25 children in foster homes, seven children in group homes, and 22 children placed with relatives. Thirteen of her cases involved review hearings in Tribal Court. The Child Welfare case worker also investigated 24 referrals and handled six "child in need of care" petitions in Tribal Court. She also made 32 foster home visits and 11 parent home visits. Finally, she made 104 telephone contacts with foster parents and 109 parent telephone contacts. (NCT Social Services Department, 2001c).

As a result of this heavy work load, the Child Welfare program operates continuously on a crisis basis. Although Child Welfare case workers are supposed to make monthly visits to their wards, this is rarely possible given the heavy case load. The Social Services Department estimates that at least two additional Child Welfare case workers are needed to meet the existing demand for services. (Shoulderblade, 1-23-2002).

Indian Child Welfare Act/Home Base. Since 1991, the Tribe has operated an Indian Child Welfare Act ("ICWA") program under a 638 contract with the BIA. The focus of the ICWA program is two-fold: strengthening and preserving Indian families on the Reservation; and intervening to assert the Tribe's interests in State court proceedings involving children who are Tribal members. (NCT Social Services Department, 2001a)

With respect to on-Reservation families and children, the ICWA program takes a "home-based" approach which provides counseling and other services to families who are at risk of break down in order to assist family members learn how to function safely and productively within the family unit. The ICWA program receives its case load from the CPW who is responsible for investigating all referrals for child abuse and neglect on the Reservation. If the CPW determines that Court intervention is unnecessary but the family is at risk for abuse and neglect, a referral is made to the ICWA program for monitoring and counseling services. If the family agrees, a Home Counselor from the ICWA program will conduct an individual needs assessment and develop a treatment plan which is signed by all parties. The treatment plan often includes an agreement to seek drug and alcohol treatment through the Tribe's recovery program. Family counseling, individual counseling, and parenting classes may also be included. (NCT Social Services Department, 2001a; Shoulderblade, 1-23-2002).

The Home Counselor is responsible for making regular visits to the home to provide support, follow up, and monitoring. As resources allow, the Counselor also may provide counseling to family members and other services including transportation, house cleaning, and respite care. The Counselor may also work with other Tribal agencies to help families address problems relating to housing, employment, education, health, chemical dependency, and domestic violence. The program used to have some money to help

families pay for day care but this funding has now been eliminated. (NCT Social Services Department, 2001a; Shoulderblade, 1-23-2002).

The second major focus of the ICWA program is the intake and processing of all ICWA notifications concerning Northern Cheyenne children involved in State court systems. A Home Counselor takes the lead role in processing these notifications and assessing whether the affected child qualifies for the Tribe's services. The final decision to take action on a State referral is made by the Director of the Tribe's Social Services Department with the advice of a three-member committee appointed by the Tribal Council. Once a decision is made to take action, the Tribe will attempt to intervene in the State court action and seek to transfer jurisdiction over the child to Tribal court. If jurisdiction is transferred, the case will be assigned to a Child Welfare case worker who is responsible for developing a plan for care and placement of the child. The first preference for placement is with the child's parents or extended family members. (NCT Social Services Department, 2001a; Shoulderblade, 1-23-2002).

The ICWA program has extremely limited resources available to fulfill the above objectives. The total budget for the program in FY 2002 is about \$65,000. With its current funding, it can employ only two Home Counselors, who in FY 2001 each received a salary of \$7.81 per hour or \$16,243 per year. Each of these underpaid Home Counselors has a heavy case load. During the fourth quarter of FY 2001, for example, each ICWA Home Counselor typically had about six on-going cases at any one time. In addition, the Counselors processed seven new cases and made a total of 52 home visits, 34 office visits and 28 foster home contacts. Finally, the Home Counselors conducted intake and processing of 183 State court notifications. (NCT Social Services Department, 2000b; NCT 2001a).

In addition to not having enough Home Counselors, the ICWA program lacks sufficient resources to intervene to protect the Tribe's interests in State court proceedings involving the children of Tribal members. The ICWA program could afford to spend only \$10,000 for attorneys' fees in 2001 despite the fact that the Tribe must be represented by an attorney in State court proceedings. The lack of money for attorneys' fees dramatically limits the number of State court cases in which the Tribe can afford to intervene. Even in cases where the Tribe does intervene, the Tribe usually has sufficient resources only to file papers with the court and cannot send an attorney to the court hearing to represent the Tribe. In cases where the Tribe does not intervene, the child is usually put in a non-native foster home. (Shoulderblade, 1-23-2002).

Title IV(e) Foster Care The Northern Cheyenne Tribe is one of ten Tribes in the nation that participate in the Foster Care program funded under Title IV(e) of the Social Security Act. Title IV(e) was enacted to make children qualifying for public assistance also eligible for foster care services. The Title IV(e) program is funded by the United States Department of Health & Human Services through the State of Montana. (Parker, 1-08-2002; Matas, 2001:63).

The Title IV(e) program provides foster care services to Native American children who are on, or eligible for, public assistance. Approximately 40 percent of all Reservation children in foster care are Title IV(e) eligible. The Title IV(e) program arranges foster care placements, provides monitoring of foster care arrangements, and provides residential or therapeutic care to special needs children. The program also provides support payments to foster parents ranging from \$450 per month for children 12 and under, \$600 per month for children 13 and older, and up to \$700 per month for special needs children. (Parker, 1-08-2002).

Funding for this program in FY 2002 is projected to be approximately \$195,000. Program staffing includes a full-time director, full-time office manager, and two full-time social workers. Funding is determined on the basis of anticipated need. Starting in July 2001, the Tribe began negotiations with the State and federal governments on a six-year funding agreement for the Title IV(e) program. No agreement has yet been reached. If the number of Title IV(e)-eligible children increases beyond the levels currently anticipated, the long-term funding levels established in these negotiations will be inadequate. (Parker, 1-08-2002).

Case loads are subject to large fluctuations. The current case load for the Title IV(e) program is 60 children in placement, although case loads have at times been as high as 100. For most children, length of placement ranges from three to four years. The major reasons for referral are neglect and sexual abuse, which are often alcohol or drug related. Approximately 20 children are placed with foster families on the Reservation. However, many children have special needs and require more than foster placement. Approximately, 20 to 30 children are in therapeutic care, many of whom are in the InCare facility in Billings, where approximately 75 percent of the children are Northern Cheyenne. Another ten children are in group homes. About five or six children require psychiatric care and are in off-Reservation residential facilities in Wyoming and Montana. (Parker, 1-08-2002).

The program is struggling with two problems: there are not enough families on the Reservation that qualify as foster parents, and there are not enough foster parents trained to work with children who have special needs. (Matas, 2001:63; Parker, 1-08-2002).

Foster Care Licensing The Tribe's Social Services Department operates a program for recruiting and licensing Tribal members as foster care providers. Funding is provided by the Federal Department of Health & Human Services at a level of \$62,000 for FY 2002. The licensing program includes character and criminal background checks, a tuberculosis test, and certification that the foster parent has completed a limited amount of foster parent training (approximately 10 to 12 hours). The program focuses on getting the relatives of children in need of foster homes licensed to provide foster care as quickly as possible. However, it has very limited resources to pay for this training, which is usually conducted at Chief Dull Knife College or St. Labre. The program is also responsible for monitoring subsidized adoptions and foster care placements and ensuring that foster parents receive their monthly payments. (Shoulderblade, 1-23-2002).

The Department has the resources to employ only one foster care licensing worker. In 2001, the foster licensing worker was responsible for overseeing 60 families on the Reservation and ten families off the Reservation that were licensed to provide foster care. More specifically, in the second quarter of FY 2001, the foster care worker licensed ten new foster homes and re-licensed an additional eight homes. The worker also conducted 25 home visits to existing foster homes and conducted six additional home studies for the Tribal Court. (Matas, 2001:63; NCT Social Services Department, 2001c; Shoulderblade, 1-23-2002)

E. Elder Assistance.

Shoulderblade Center. The Tribe provides congregate housing services to elders at the Shoulderblade Center in Lama Deer using funds awarded by the United States Housing and Urban Development ("HUD"). For FY 2002, HUD awarded the Tribe \$104,000 for this program. HUD requires the Tribe provide an additional \$10,000 in matching funds in order to receive this money. The Shoulderblade Center itself is maintained by the Tribal Housing Authority. The Center has 35 apartments, of which 33 are currently filled. The apartments are available to both seniors and to younger Native Americans with disabilities. Currently, four of the apartments are occupied by non-seniors. The Shoulderblade Center is not a nursing home. However, the Center does provide transportation, personal care, housekeeping and meal service to its residents. The director of the program notes that elders are reluctant to leave their homes to live at the Center, so an increasing number of apartments are being given to young people who have been injured in traffic accidents. However, the Reservation's elderly population is projected to double over the next five years so demands on the Shoulderblade Center are likely to increase. (Tallbull, 1-08-2002).

Food Program. The Tribe's Elder Program provides free meals to elders using grant moneys awarded by the United States Administration On Aging ("AOA") under Title VI of the Older Americans Act. The Tribe must provide matching funds in order to receive the federal funding. In 2001, the Tribal match was approximately \$39,000. Funding is provided monthly to reimburse the Tribe for the number of meals actually served. (Tallbull, 1-08-2002).

There are about 260 elders who are eligible for free meals under the elder food program. Disabled persons, the spouses of elders, and personal care givers are also eligible to receive meals. One meal per day is provided at two meal centers – the Shoulderblade Center in Lama Deer and the St. Labre School in Ashland. About 79 meals are served daily at the Shoulderblade Center and another 27 are served in Ashland. Residents of the Shoulderblade Center receive two additional meals per day. The Tribe also operates a mobile service for elders who cannot travel to the meal center. The mobile service serves 81 elders in Busby, 48 in Lama Deer, and 32 in Birney. Since mobile food service has been made available in Birney and Busby, participation has increased from 8 to 32 elders in Birney and from 13 to 81 in Busby. Funding is not available to operate the

mobile meal program on weekends. Two meals are served at the Shoulderblade Center on weekends for a charge of \$9.50. (Tallbull, 1-08-2002).

VIII. Employment and Job Training.

Workforce Investment Act. The Tribe administers an adult job training and work experience programs funded by the United States Department of Labor under the Workforce Investment Act. The Tribe also administers a youth work experience program.

The adult work experience program is staffed by a quarter-time director, a half-time secretary, and a quarter-time counselor. The program provides work experience opportunities on the Reservation which consist of minimum wage employment with Tribal government programs for a maximum of three months. This includes both placement and funding of the recipient's salary. The program also provides some support services, including work clothing, and gas and mileage for persons enrolled in the program. In addition, the program also pays a stipend of \$250.00 per year to Classroom Training (CRT) as well as paying a stipend to persons receiving their GED in the GED Program at Dull Knife college. (Whitewolf, 1-08-2002 and Whitewolf, 2002).

Federal funding for the adult program is \$176,000, of which 20 percent is allocated to program administration. Funding levels are set based on the Reservation's low-income Native American population as determined by the United States Census. All on-Reservation Indians meeting Federal income guidelines are eligible to participate in the program. However, funding is inadequate to serve but a fraction of those who apply for assistance. Approximately 15 people are currently placed in Work Experience, another 100 are enrolled in CRT including GED students. The program reports at least 75 applications for work experience that cannot be met. The program cannot meet current needs at current funding levels. Funding is based on Census low-income population statistics, not on actual demand for services. (Whitewolf, 1-08-2002 and Whitewolf, 2002).

Federal funding for youth work experience program is \$57,000 per year. It is staffed by a quarter-time director, a half-time secretary and a half-time counselor. Native American youth between 14 and 21 years old are eligible to participate if their parents meet federal income guidelines. There is a preference for Tribal members if demand for services exceeds funding. The program places youth in short-term jobs with Tribal government and funds up to 10 hours per week of their salary at minimum wage. In addition, the program pays a stipend of \$250 to youth upon completion of the GED program. There is currently a waiting list for this program. (Whitewolf, 1-08-2002).

Tribal Employment Rights Office ("TERO"). The Tribe was one of the 12 original members of the Council for Tribal Employment Rights which created the Tribal Employment Rights Office (TERO) concept in the 1970s. In 1977, the Tribe received a grant from the federal Equal Employment Opportunity Commission ("EEOC") to establish a TERO program on the Reservation. The program is based on a TERO ordinance which requires Indian preferences in on-Reservation employment, training and contracting in

accordance with Federal law. The TERO ordinance also imposes fees on all Reservation contracts and requires that all non-Indians working on the Reservation obtain work permits from the Tribe. (Braine, 1-09-2002).

The TERO ordinance establishes a TERO office which is responsible for enforcing the Tribe's TERO requirements and EEOC mandates, collecting fees from non-Indian contractors and workers performing services on the Reservation, and issuing fines for violations of TERO and EEOC requirements. The TERO program uses these fees and fines to fund its enforcement activities and to underwrite the services it provides to Tribal members and other Indians which include job training, employment referrals, workforce incentives, and employment counseling. (Braine, 1-09-2002; Matas, 2001:27).

Although the TERO offices continues to receive approximately \$25,000 in annual funding from EEOC, the ability to assess fees makes the TERO program financially independent from Tribal government. Contractor fees are imposed on a sliding scale based on the total value of the contract. Contracts of less than \$10,000 are assessed a fee of \$50, contracts between \$10,000 and \$150,000 are assessed a fee of 2 percent of the contract value, and contracts of over \$150,000 are assessed a fee of 3 percent of the contract value. Work permits are \$20 for each non-member and are applied on a per contract basis. (Braine, 1-09-2002).

Several major construction projects on the Reservation have recently allowed the TERO program to greatly expand its budget and the services it can provide to Tribal members and other Native Americans. These projects include the Northern Cheyenne Health Center, the Lane Deer High School, the Chief Littlewolf Capitol Building, the reconstruction of U.S. 212 east of Lane Deer, improvements to the Tongue River Dam and the reconstruction of the Busby school and gymnasium. Over the past five years, annual TERO-generated revenues have averaged \$376,455. Staffing levels in the TERO office have grown from two full-time employees in 1985 to six full-time employees today. (Braine, 1-09-2002).

The Tribal TERO office operates a job training and placement program for on-Reservation contractors. The TERO office certifies contractors and ensures that only TERO-certified contractors are allowed to bid on Reservation projects. Once a bid is accepted, the contractor is required to prepare a compliance plan with the assistance of a TERO compliance officer. In addition to specifying the amount of the TERO fee, the plan will also specify the number of Tribal members and other Indians that the contractor must employ on the project. This number is subject to negotiation and the contractor is permitted to retain a core crew of its own employees who are essential to the fulfillment of the contract. In FY 2001, the TERO office negotiated 68 compliance agreements and conducted 143 on-site inspections to monitor compliance with these agreements. (Braine, 1-09-2002).

The TERO office also recruits qualified Tribal members and other Indians to fill the positions provided for in the compliance plan. If there are no qualified Indians on the Reservation, the Northern Cheyenne TERO office will contact TERO offices on other Indian reservations to find qualified Indian applicants. As of FY 2001, the TERO office had 885 job applications on file, of which 682 were Tribal members. However, there is roughly a 300 to 400-person labor pool from which prospective employees are drawn. Skills that are typically requested are carpenters, truck drivers, heavy equipment operators, flaggers, laborers, and clerical help. The labor pool is approximately 80 percent male. Approximately 61 percent of the Northern Cheyenne TERO applicants have a high-school diploma, another 15 percent have a GED degree, and 18 percent have some college education. Fifty-seven percent of the TERO program's job applicants are trade certified. (NCT TERO, 2002).

The TERO office has an toll-free number that prospective applicants can call to find out if any positions are available. Contractors typically conduct job interviews at the TERO office or at other locations on the Reservation. The TERO office made 588 job referrals to contractors in FY 2001 which resulted in 196 hires. (Matas, 2001:27; Braine, 1-09-2002).

The TERO program is also involved in job training efforts. TERO will negotiate with contractors for training positions in TERO compliance plans. The TERO program also provides Tribal members will financial assistance with various forms of job training, including apprenticeships. TERO will also pay the costs of getting Tribal members enrolled in unions licensed in trades. For example, in FY 2001, the TERO office assisted 54 individuals in receiving flagger certification training. Efforts have recently begun to improve coordination between different Tribal programs (including the Workforce Investment Act and adult education programs) that also provide job training to members. (Braine, 1-09-2002).

Child Care. A major problem for Tribal members seeking employment is finding inexpensive, reliable child care. There are currently six day care facilities on the Reservation, four in Lame Deer and one each in Busby and Ashland. All of these facilities operate on a fee for service basis. The Tribe administers a program funded by the United States Department of Health and Human Services which subsidizes child care expenses (both in-home and at child care centers) on the Reservation. The program is administered by a quarter-time director and has a full-time coordinator on staff. All Native Americans needing child care who fall below an income threshold are eligible to receive services under the program. Tribal members are given preference in the event of a shortage in funding. The program provides a child care subsidy of between \$1.50 and \$2.00 per hour depending on the income of the recipient. (Whitewolf, 1-08-2002).

Current funding for FY 2002 is approximately \$197,000, of which 20 percent is allocated to administration. Funding levels are based on the low-income population reported by the United States Census. Approximately 100 clients receive funding for child care under this program. The program director reports that there is an extensive waiting

list for services. Increases in demand for services resulting from off Reservation development will not automatically result in increases in funding because funding levels are based on census low-income population statistics, not on the actual demand for services. The lack of funding for child care may pose a barrier preventing Tribal members from obtaining the employment and other benefits of off-Reservation energy development. (Whitewolf, 1-08-2002).

IX. Recreation.

Outdoor recreation activities available on the Reservation include hunting, fishing, hiking, horseback riding, and plant and berry gathering, (BLM, 1989). Unrestricted hunting is allowed on the Reservation for enrolled Tribal members. Many species are being impacted by the lack of hunting regulations, such as deer, antelope, bobcats, and waterfowl. Currently, no wildlife plans, ordinances or regulations exist; however, the Tribe is working on establishing these policies (Headswift, personal communication, 2002). Wild game can thrive on the Reservation with the proper land and game management policies and become a harvestable natural resource. (Little Coyote, 2001).

Fishing opportunities on the Reservation are limited and generally restricted to stocked ponds and the main fisheries, Rosebud Creek and the Tongue River. Tribal members do not need fishing permits, nor are there regulations as to catch number or size. (BLM, 1989).

The only developed recreational area is Crazy Head Springs. It consists of four spring-fed ponds located on the divide between Lame Deer and Ashland (Little Coyote, 2001). Picnic and camping facilities are available and fish are stocked in the springs. This recreation facility is heavily used, and recent water testing has indicated the presence of fecal coliform bacteria (Little Coyote, 2001).

Other recreation areas with minimal facilities include (BLM, 1989; Killsback, 2001a):

- Lost Leg Lake
- Ice Wells Picnic Area
- Green Leaf, Red Nose, and Parker Ponds
- Morning Star, Garter Peak and Badger Peak Lookouts
- Kenneth Beartusk Memorial PowWow Grounds
- Buffalo Jump
- Indian Chief Two Moons Historical Monument
- Busby Race Track (White River Recreation Site)

The parks on the Reservation include Birney Park, White Moon Park, Tongue River Park, Busby Park, and Lame Deer Parks, which include the West Side Park, East Side Park, and Dull Knife Park and Picnic Area. The Summer Youth Work-Learn Program actively attended to these areas in the summer of 2001 to beautify the facilities of the Reservation (Killsback, 2001a).

There is nevertheless a paucity of developed recreation facilities on the Reservation. There are no baseball fields, swimming pools, tennis courts or golf courses. The Lame Deer High School and the Boys and Girls Club each have an indoor basketball court, but the school gym is open to the public only on Sundays and the gym at the Boys and Girls Club is open for a couple of hours each evening. There are football fields at the schools in both Lame Deer and Busby. The nearest movie theater is in Hardin. (Whiteman, 2-25-2002).

The Reservation has actually suffered a net loss in recreational facilities over the years. The Lame Deer swimming pool closed about 15 years ago due to cracks in the foundation that were not repaired. The largest developed park in Lame Deer, Black Kettle Park, which was the site of two baseball diamonds, outdoor basketball courts and a horseshoe ring, was appropriated as the site for the new IHS Health Center in 1999. Only \$90,000 was provided by IHS to mitigate the loss of these recreation facilities while replicating these facilities elsewhere is estimated to cost \$391,000. In addition, a public gym was torn down to make way for the new Tribal government center in 1996. (Whiteman, 2-25-2002).

The lack of developed recreation facilities on the Reservation contrasts with the abundance of these facilities in the town of Colstrip. Colstrip has its own golf course and a public recreation center complete with a swimming pool, basketball courts, racket ball courts, and a fitness center. There are also outdoor tennis courts and an artificial lake for fishing and swimming. (Whiteman, 2-25-2002).

X. Transportation.

A. Availability.

Although the Reservation road network has been improved over the years, the Reservation community still suffers from a severe transportation deficit. Access to private automobile transportation is limited due to high rates of poverty. For example, only three out of ten recipients of General Assistance report having personal transportation. (Matas, 2001:43)

Public transportation on the Reservation is nonexistent. (Matas, 2001:43; Spang, 1-09-2002). The Reservation also has no private bus service. The nearest bus depots are in Crow Agency (41 miles from Lame Deer) and Forsythe (58 miles from Lame Deer). (Matas, 2001: 43). There is rail or air service on the Reservation. There is also no formal taxi service. (Spang, 1-0-9-2002).

The Tribe's Board of Health does offer special transportation for persons needing to visit off-Reservation health care facilities. In addition, an agreement between the Tribe and Pacific Power and Light ("PPL") (formerly Montana Power) requires PPL to provide transportation services for Indian employees residing on the Reservation to job sites in Colstrip. These transportation services are privately contracted by Z Bar Enterprises, which is owned by a Tribal member. Similar provisions in the Tribe's agreement with the Western Energy Company are apparently not being implemented. (Braine, 1-09-2002).

Finally, as discussed in section VI, above, the Reservation Head Start program, Lama Deer School District, the Busby school, and the St. Labre Mission provide free transportation to those students who live on the Reservation. Free transportation is no longer provided for Reservation students who choose to attend the off-Reservation Colstrip public schools. (Braine, 1-09-2002; Nygaard, 1-24-2002).

B. Infrastructure.

The Reservation is serviced by two major State primary highways that are constructed and maintained by the Montana Department of Transportation and one secondary highway that is the responsibility of Big Horn County. Other secondary highways on the Reservation are maintained by the BIA using moneys from federal Highway Trust Fund.

U.S. Highway 212. U.S. Highway 212 is a major east-west thoroughfare which runs from Rapid City, South Dakota, west to the intersection with Interstate 90 at Crow Agency, 22 miles west of the Northern Cheyenne Reservation's western boundary. The highway connects the Reservation communities of Busby, Lama Deer and Ashland. It is the major local road, as well an important through route. (Feeney, 1986:6:46).

U.S. 212 was originally constructed between 1954 and 1957. The portion of U.S. 212 between Busby and Lama Deer was improved in the mid 1970s. The portion between Lama Deer and Ashland was not improved at this time and by the mid-1980s was rated by the Montana Department of Highways as one of the worst highways in Montana. (Feeney, 1986:6-48,50). Over the past several years, however, the Lama Deer to Ashland highway has undergone total reconstruction, including reconstruction of the roadbed, widening and realignment, installation of passing lanes, elimination of hairpin curves, resurfacing, and the installation of new culverts and guardrails. (Braine, 1-09-2002).

Because U.S. 212 is a through road between Rapid City and Interstate 90, it receives heavy truck traffic. Tribal officials have pointed out that truckers may have an incentive to use U.S. 212, instead of Interstate 90, due to the relative lack of traffic enforcement along the route. This problem is exacerbated on the Northern Cheyenne Reservation where BIA law enforcement officers lack jurisdiction to enforce State speed limits and other traffic laws. Only one State highway patrol officer is stationed in Colstrip. The next nearest State highway patrol officer is in Miles City. (Melville, 1-24-2002).

Perhaps as a consequence of the lack of enforcement, BIA law enforcement officials report that long-haul truckers often violate speed limits when crossing the Reservation. This is a special problem in the vicinity of Busby and Lame Deer where the posted speed limit is 45 mph rather than the normal truck speed limit of 65 mph. The BIA will often stop truckers and write warnings for speeding, even though they cannot write traffic citations, simply to slow truckers down and provide a disincentive for those who hope to save time by using U.S. 212. (Melville, 1-24-2002).

State Highway 39. Montana Highway 39 is a primary north-south highway that runs south from Interstate 94 through Colstrip, to its junction with U.S. 212 in Lame Deer. The highway was built in the early 1960s. All of Highway 39 between Lame Deer and Colstrip was improved during the coal boom of the late 1970s and early 1980s, except for the four miles within the Reservation, which were reconstructed in 1993. (Feeney, 1986: 6-48; Spang, 1-09-2002).

County Highway 314. Highway 314, also known as BIA Highway 8, is a paved secondary road which is maintained by Big Horn County and runs south from Highway 212, through the towns of Kirby and Decker to Interstate 90 north of Sheridan, Wyoming. The portion of Highway 314 from Highway 212 south to the Reservation line was reconstructed in 2001. (Spang, 1-09-2002).

BIA Highway 4. BIA Highway 4 is a paved secondary road which is managed by the BIA and runs south from Lame Deer to the Reservation village of Birney. The road is narrow, winding, and often icy in winter. However, it is the most direct route from Billings and Miles City to much of the upper Tongue River Valley. The BIA plans a major reconstruction of this road starting in 2002. (Spang, 1-09-2002). The funding and completion date for this project is uncertain.

BIA Highway 11. BIA Highway 11 is a paved secondary road which runs along the west bank of Tongue River between Birney and Ashland then north to the Reservation line and on to Miles City. The off-Reservation road along the east bank of the Tongue River is unpaved so north-south traffic between Ashland, Decker and Sheridan primarily utilizes Highway 11 through the Reservation. Highway 11 north of Ashland was reconstructed and paved by the BIA. The BIA has been working on reconstruction of the southern portion of Highway 11 for the last seven years but it is still not finished. (Spang, 1-09-2002).

Town of Lame Deer. Streets in the Town of Lame Deer are owned and maintained by Rosebud County. Under a cooperative agreement, BIA plows Lame Deer's streets in exchange for the County's plowing of the on-Reservation portion of BIA Highway 11 north of Ashland. Use of sand on Lame Deer streets and the lack of paving has resulted in a serious problem with airborne dust during the winter. There has been so much dust that Lame Deer has been designated a non-attainment area for PM10. See Chapter 6 Part IV.C. The air quality problem has been partially addressed through the use of magnesium chloride instead of sand. In addition, The Tribe recently obtained an award of \$600,000 from the Montana Air Congestion Initiative which will result in the paving of Morning Star

Drive, the last major gravel street in Lame Deer. Other township streets have recently received an overlay to produce rejuvenated asphalt. This work was done by Rosebud County. (Spang, 1-09-2002).

C. Transportation Planning.

The Tribe's TERO office has the responsibility to undertake transportation planning for the Reservation under two 638 contracts with the BIA. The first contract provides funding for the development of a transportation plan to be adopted annually by the Tribal Council which is used to set transportation priorities for the BIA's Roads Department and upgrade the Reservation's road inventory. The second contract is a one-time set aside for the development of a ten-year transportation plan for the Reservation. Future transportation funding from the federal Highway Trust Fund will be based on the needs established in this ten-year plan. In addition to funding road construction, moneys from the Highway Trust Fund may be available for other transportation projects such as sidewalks, bike paths, and public transportation. (Spang, 1-09-2002).

D. Traffic Law Enforcement.

The lack of enforcement of traffic laws is a serious public safety problem on the Reservation. There is still no Tribal traffic code and very few traffic regulations on the Reservation. For example, Tribal members may drive on the Reservation without a driver's license or insurance. As a result, children as young as 12 years old have been observed operating motor vehicles on the Reservation. There are still few speeding regulations. The fines for DWI are \$500 for the first offense, \$1,000 for the second offense and \$2,500 for the third offense. (Melville, 1-24-2002).

Tribal traffic regulations that exist can generally only be applied to Indians. Enforcement of traffic laws against non-Indians is extremely problematic. The BIA, which has primary law enforcement authority on the Reservation, has no authority to enforce State traffic laws and the State highway patrol does not routinely patrol Reservation highways. Non-Indian truckers and others already exploit this jurisdictional gap and drive at excessive speed on U.S. 212. The lack of traffic law enforcement may contribute to the extremely high accident rate on the Reservation. This problem may increase with off-Reservation development if workers and contractors travel across the Reservation to and from job sites in the Tongue River valley. (Melville, 1-24-2002; Braine, 1-09-2002).

E. Transportation Safety.

Tables 1 and 2 in Appendix C show annual average traffic volumes, miles driven, and accident statistics for U.S. 212 and State Highway 39, the major federal and state routes through the Reservation, for the period 1990 through 2001.¹ In the tables, the data

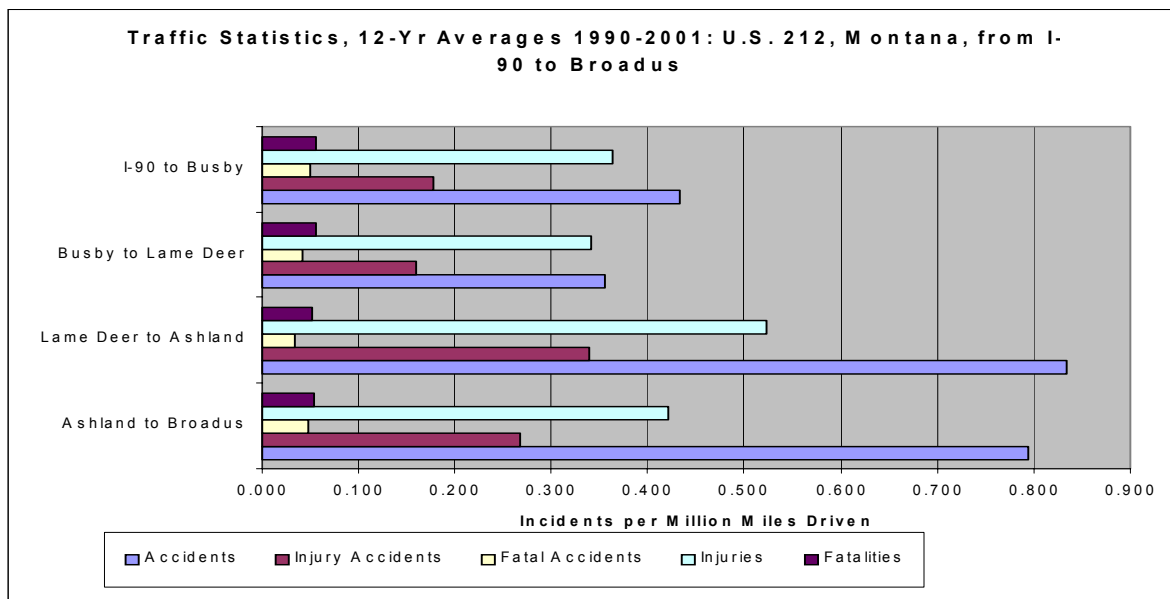
¹ The data from which these tables are derived were made available through Pierre Jomini, Safety Management Engineer with the Montana Department of Transportation. Mr. Jomini cautioned that "...these crash data are from the Montana Highway Patrol data base and not all crashes on the Northern Cheyenne

are aggregated in two five-year intervals (1990-1994 and 1995-1999) and a final two-year 2000-2001 interval. Table 1 presents the statistics for U.S. 212 from Interstate 90 in the west to Broadus, Montana in the east. Table 2 presents the same information for Montana State Highway 39, from its Lama Deer intersection with U.S. 212 north through Colstrip, and on to its junction with Interstate 94. (See Appendix C)

The different road segments, however, are of different lengths, and have different volumes of traffic. For the information to be comparable, these variables need to be held constant. Tables 1a and 1b present road accident figures for the four road segments of Highway 212 by million miles driven on each segment (Table 1a), and by the average ten-mile section of each road segment (Table 1b). Tables 2a and 2b present the same information for State Highway 39. (See Appendix C)

This data compiled in these tables show that the road segments from Lama Deer east to Broadus have relatively high accident rates for miles driven, as compared to the road segments from I-90 to Lama Deer. Figure 5-1. Further, the road segments from Lama Deer to Broadus show roughly equal accident rates per million road miles. In other words, a motorist faces roughly the same risk of an accident driving from Lama Deer to Ashland, as he or she does driving from Ashland to Broadus. But looked at in this way, the statistics tell only part of the story.

Figure 5-1: Accident Statistics per Each Million Miles Driven Annually, 1990 - 2001. U.S. 212, Montana, From the I-90 Junction to Broadus.



The Lama Deer to Ashland segment of U.S. 212, however, has nearly twice the traffic volume of the Ashland – Broadus segment (AADT of 1,500 for Lama Deer – Ashland as compared with 800 for Ashland – Broadus), while being less than half as long (19 miles vs. 41.5 miles). Therefore, a more indicative figure from the standpoint of traffic safety is

Indian Nation are reported to the Highway Patrol." (Jomini, 2002).

the accident rate of a road segment for a given number of miles. This figure can then be compared for the different road segments. In Figure 5-2, below, each road segment has been divided into ten-mile intervals. The number of accidents was then multiplied by the ratio derived from dividing a ten-mile section by the total length of the road. The results of this approach are shown in Table 1b in Appendix C and graphically in Figure 5-2.

Figure 5-2: Accident Statistics per Each 10-Mile Average Road Segment Driven Annually, Twelve Year Averages 1990 - 2001. U.S. 212, Montana, From the I-90 Junction to Broadus.

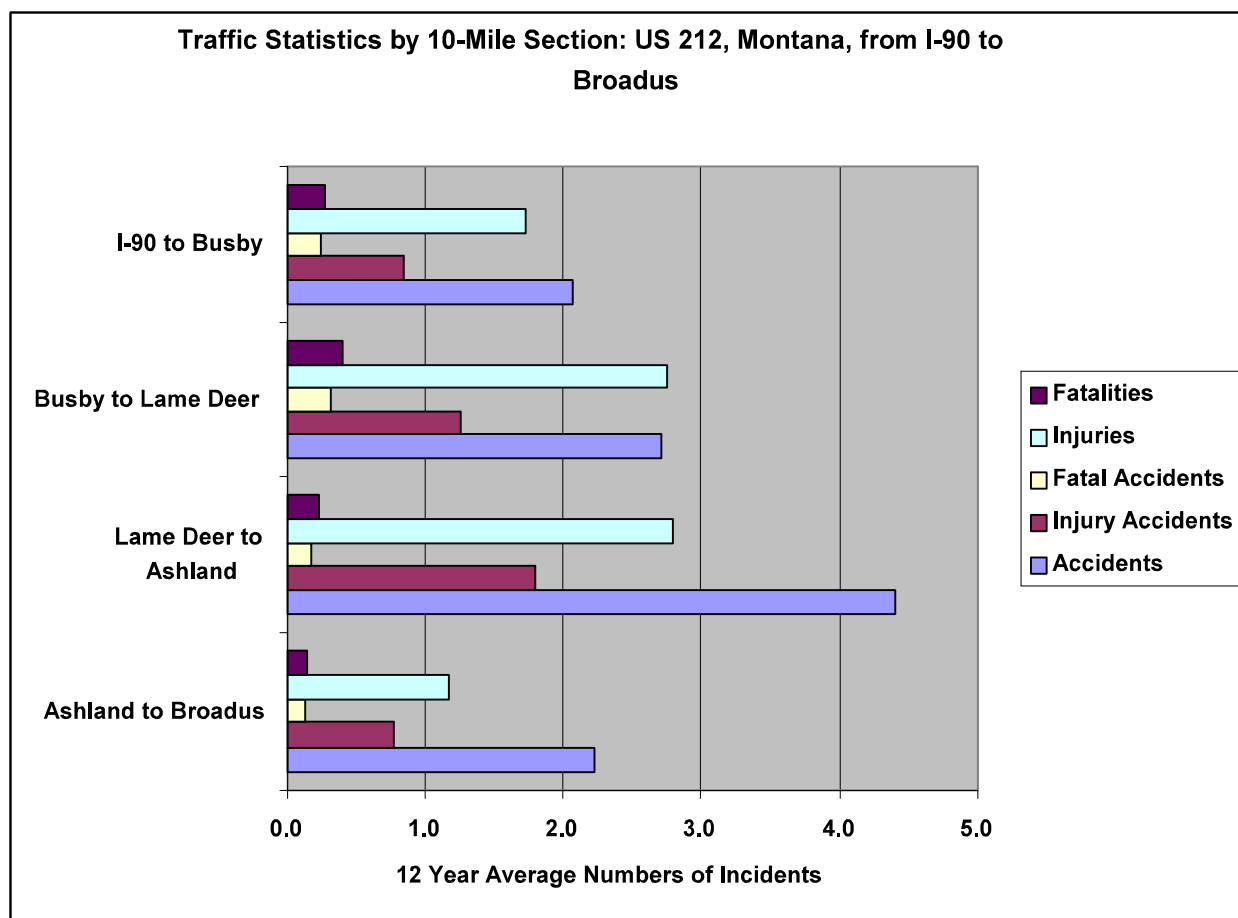


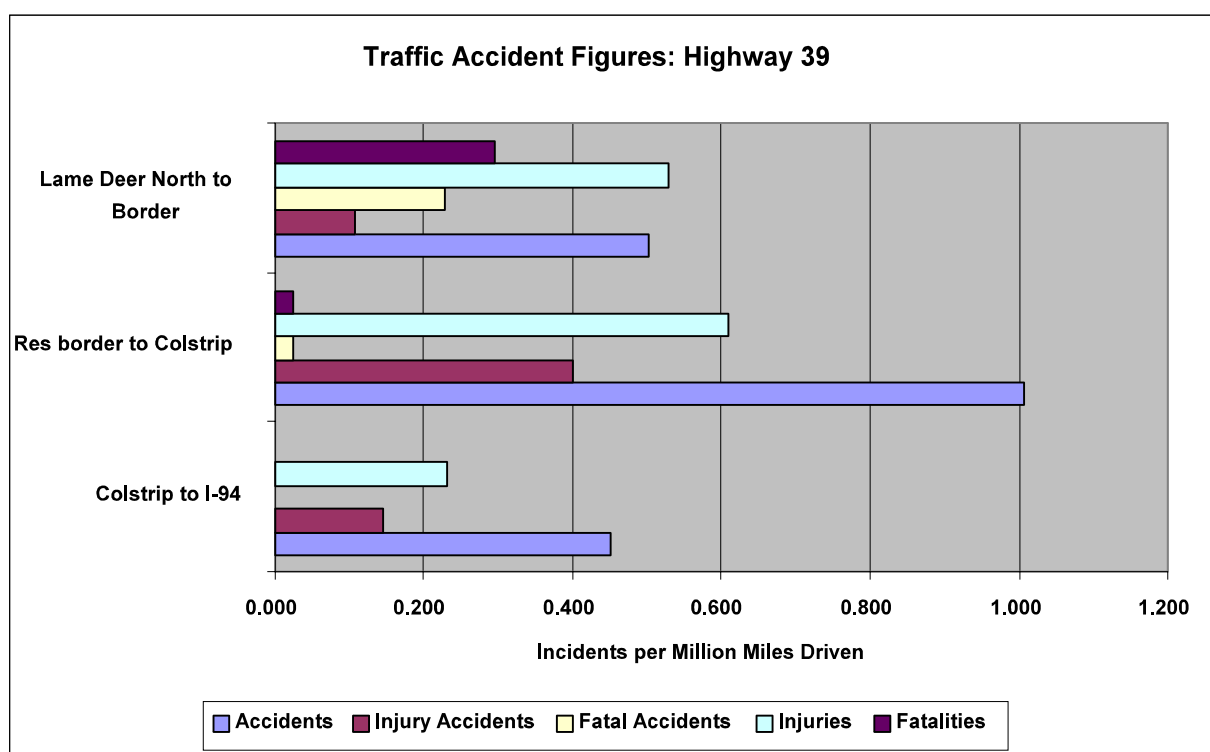
Figure 5-2 above shows clearly that the portions of U.S. 212 on the Northern Cheyenne Reservation are more dangerous mile-by-mile than off-Reservation sections. The Busby to Lane Deer section is highest in fatalities for each average 10-mile section, while the Lane Deer to Ashland stretch is highest in total accidents by 10-mile section.

Tables 2a and 2b in Appendix C and Figure 5-3 and 5-4 below present the same type of data for State Highway 39. This road originates in Lane Deer at the U.S. 212 intersection, proceeds north to the northern border of the Reservation, and then to Colstrip.

From Colstrip, Highway 39 proceeds on to its northern terminus at the junction with Interstate 94.

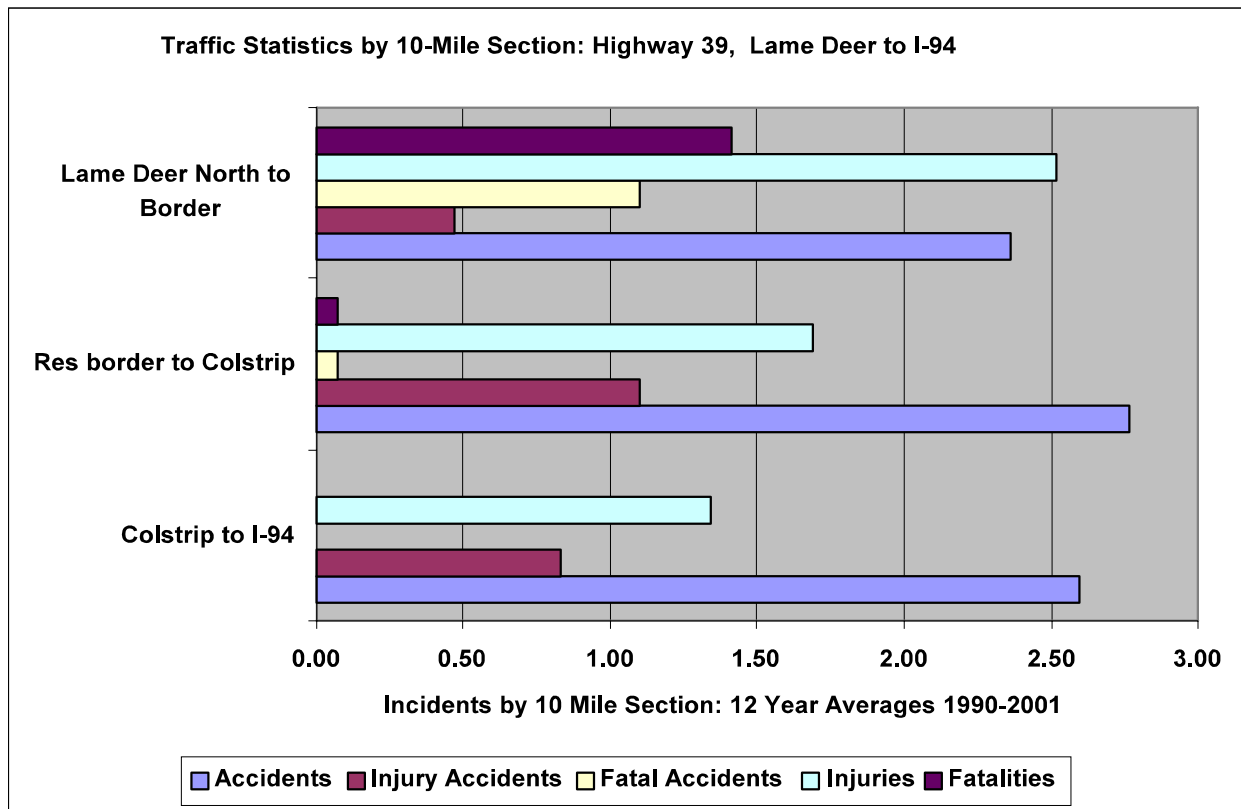
Figure 5-3 confirms that there is a relatively high number of fatalities and fatal accidents in the short stretch from Lame north to the Reservation border compared to off-Reservation segments of the same highway. This short stretch of road, only about 4.25 miles long, runs through a relatively densely populated area of the Reservation. Also notable is the high accident rate in the stretch from the border to Colstrip. Just north of the Reservation border, on Highway 39, is the Jimtown Bar, an establishment popular with residents of Colstrip as well as of the Northern Cheyenne Reservation.

Figure 5-3: Accident Statistics per Each Million Miles Driven Annually, 1990 - 2001. Montana Highway 39, From Lame Deer to the I-94 Junction.



The relatively high rates of fatal accidents on the two segments of Highway 39 from Lame Deer to Colstrip show up even more clearly by looking at accident figures per 10-mile section of road. Figure 5-4 below. On a per mile basis, the relatively higher accident rate from the border to Colstrip becomes less pronounced, while the number of fatalities in the short stretch of road from Lame Deer to the Reservation border becomes more striking.

Figure 5-4: Accident Statistics per Each 10-Mile Average Road Segment Driven Annually, Twelve Year Averages 1900 - 2001. Highway 39, From Lane Deer to the I-94 Junction.



XI. Findings and Conclusions.

In general, public services and facilities on the Reservation are inadequate to meet the Reservation's overwhelming needs which result from decades of severe poverty, unemployment and social disintegration. However, the degree of inadequacy varies from area to area and program to program. In this section, we assess the adequacy of public services and facilities in each subject area. We also identify areas which may be vulnerable to social and economic impacts which may result from off-Reservation energy development.

A. Assessment of Adequacy of Reservation Services and Facilities.

It is our view that none of the 10 categories of Reservation services analyzed in this report is adequate to fully meet the need for services on the Reservation. The most severe deficiencies in service are in the areas of housing, fire protection and employment. The level of service in the area of utilities, law enforcement, social services and transportation is rated as deficient. There are also deficiencies in health, education and recreation services on the Reservation although deficiencies are less pervasive than in other areas. These deficiencies are summarized below and in Table 5-2.

Housing. The Reservation is experiencing a housing crisis. There are approximately 1,200 housing units on the Reservation. Approximately 700 of these units are considered to be in substandard condition. As many as 864 families need new housing. The lack of housing leads to serious overcrowding and forces Tribal members to live off the Reservation. Public housing services are woefully inadequate to address this crisis. With current resources, the Tribe's housing authority is able to acquire or construct only a handful of new houses each year, substantially less than in the heyday of Federal housing programs in the 1970s. About two-thirds of the existing housing stock on the Reservation is in substandard condition. Money for renovation of existing houses is inadequate to keep up with the deterioration of the housing stock, a problem which is exacerbated by overcrowding. Many septic systems for houses built in the 1970s are now starting to fail and no funds are available to correct these deficiencies.

Utilities. Water service is adequate in Lame Deer and Busby but water shortages occur in the outlying districts of Birney, Ashland and Muddy Cluster, requiring mandatory water rationing. Water shortages are the result of undersized reverse-osmosis water treatment systems. However, the water in Birney and Muddy Cluster is undrinkable without these treatment systems. There are serious deficiencies in the Lame Deer sewage treatment plant which discharges into Lame Deer Creek in violation of the federal Clean Water Act. Full funding for remedial work has not been secured. Waste water in the other four districts is allowed to leach into the soil without treatment. In Ashland, this occurs in close proximity to the Tongue River. The Reservation's system of solid waste transfer stations is underfunded and has been allowed to deteriorate to the point where the main collection points are considered open dumps. Illegal burning and dumping of garbage is widespread.

Law Enforcement. The Reservation suffers from an extremely high crime rate which is a symptom of severe poverty and social disfunction. Over 4,000 criminal cases were logged in Tribal Court last year on a Reservation with a census population of just over 4,400 people. Although improvements have recently been made, the police force is still underfunded and understaffed in relation to the scope of the Reservation's serious crime problem. There are times when only one officer is on duty for the entire Reservation. Police coverage in the outlying districts is poor. The Reservation's adult detention facility, although clean and well run, is often severely overcrowded. There is no detention facility for juvenile offenders although a new facility is scheduled for completion in the summer of 2003. The Tribal Court has a heavy criminal case load and operates out of substandard facilities.

Fire Department. The Reservation's volunteer fire department is essentially unfunded. The only available source of funding is a BIA grant targeting fire prevention and education efforts. Little funding is available for training and equipment, and unlike most other volunteer departments, firefighters are not paid for time spent fighting fires. Buildings continue to be lost because not enough firefighters can be kept on call. Fire equipment is old and outdated with most of the Department's fire engines dating from the 1960s and 1970s. At least half of the fire hydrants in Lame Deer are not functional and most of the

rest have inadequate water pressure. The Tribe also has no spill contingency plan and its emergency response program is unfunded. The Insurance Service Office has given the Tribe's Fire Department the lowest ranking possible and fire insurance rates on the Reservation are among the highest in Montana.

Health. As discussed elsewhere in this report, the Reservation community suffers from shockingly high rates of infant mortality, chemical dependency, and diseases such as diabetes. Tribal members are killed and injured by violence and accidents at rates far above statewide norms. The health care system on the Reservation has been greatly improved with the inauguration of the new Health Center in 1999 and the Tribe has many innovative programs designed to address the unique health care needs of the Reservation. However, the health care system is still inadequate in relation to the Reservation's special needs. The Reservation lacks a hospital, there is no dialysis center despite the prevalence of diabetes, and many forms of needed specialty care, such as cardiology, are unavailable. The Reservation lacks a fully certified emergency room because x-ray and laboratory services are not available after hours. The IHS contract care program is underfunded requiring difficult decisions involving the denial of medical treatment to persons in need. There is a low degree of personal mobility on the Reservation and insufficient resources are available to pay the cost of transporting patients to receive health care services. There is no nursing home on the Reservation which means that some elders must spend the last years of their lives away from the Tribal community.

Education. The level of educational services, while perhaps adequate for a more prosperous community without the Reservation's severe social problems, is still not adequate to address the special needs of the Reservation. A new state high school opened in Lame Deer in 1997. The Tribal school in Busby is benefitting from substantial renovations although part of the school burned down in 1998. In addition to these on-Reservation public elementary and secondary schools, parents have the option of sending their children to a well-funded private school in Ashland run by the St. Labre Mission and to the Colstrip public schools which have a tax base which includes four large coal-fired power plants. Free transportation is available to the St. Labre school but is no longer available to Colstrip. The Reservation also has a popular and well-attended Head Start program and its own community college which aggressively seeks funding from various public and private funding agencies. Despite these pluses, Reservation schools perform at the bottom of public schools in Montana and dropout rates remain very high. The number of Northern Cheyenne teachers in the public schools is low and Northern Cheyenne cultural and language programs are underfunded.

Social Services. The Reservation suffers from crushing poverty and very high rates of social ills such as domestic violence and child abuse. Public assistance programs do little to address these fundamental problems. Welfare benefits are meager, and new eligibility requirements imposed by "welfare reform" legislation prevent many needy families from receiving even the inadequate benefits which they were formerly entitled to receive. Needy families are increasingly turning to Reservation commodity and food voucher programs as resources of last resort. Some Reservation households lack heat during the

cold Montana winter as applications for low income energy assistance exceed available resources. Child protection and welfare programs are poorly funded and staffed in relation to high rates of abuse and neglect. Social worker case loads do not allow adequate monitoring and supervision of children in need of care. Children are lost to the Tribe because funding for Indian Child Welfare Act interventions is inadequate and because the number of licensed foster parents on the Reservation cannot keep up with the number of children in need of care. Foster children with special needs cannot obtain any care in foster homes on the Reservation and often must be institutionalized in off-Reservation facilities.

Employment. Unemployment is a severe, chronic problem on the Reservation due to the lack of jobs on the Reservation and barriers to employment in off-Reservation energy projects. There are limited resources available to assist Tribal members in obtaining the training and experience necessary to obtain employment in off-Reservation development projects. Lack of transportation and child care are also barriers to employment. No programs are available to assist Tribal members with their transportation needs and there is a long waiting list for the Tribe's underfunded child care subsidy program.

Recreation. The Reservation has abundant resources available for outdoor recreation and culturally important activities such as hunting, fishing and gathering medicinal plants. However, the Reservation's wildlife resources are not intensively managed or monitored and are in danger of over-exploitation. Cultural events such as Pow-Wows are well attended and the Tribe devotes much of its very limited discretionary resources to supporting these activities. However, the Reservation lacks many developed recreational facilities, such as parks, swimming pools, golf courses and tennis courts.

Transportation. The Reservation's road network has benefitted from substantial improvements since the 1980s. Nevertheless, accident rates are still unacceptably high. Moreover, many people on the Reservation lack the transportation resources to benefit from these infrastructure improvements. There is no public transportation on the Reservation, and the Reservation is not served by any commercial taxi, bus, rail or air service. Many households are too poor to be able to obtain and maintain a reliable automobile. Traffic law enforcement is virtually non-existent on the Reservation.

**Table 5-2 – Assessment of Adequacy of
Reservation Programs, Services and Facilities**

PROGRAM AREA	RATING	RATIONALE
HOUSING	Severely Deficient	<ul style="list-style-type: none"> • Severe housing shortage – 864 families on or need Reservation need homes • Most housing on Reservation is substandard • Funding for new housing and renovation of existing housing grossly inadequate to meet needs
UTILITIES	Deficient	<ul style="list-style-type: none"> • Water service is subject to interruption • Sewer system in Lane Deer in violation of Clean Water Act • Open dumps at solid waste transfer stations
LAW ENFORCEMENT	Deficient	<ul style="list-style-type: none"> • Very high crime rates – over 4,000 annual criminal arraignments in Tribal Court • Police department is greatly understaffed – inadequate coverage in outlying districts • Adult detention facility severely overcrowded – no juvenile detention facility • Tribal Court has only two trial judges to handle extremely high criminal case load • CIRCLE program improving situation but funding uncertain after FY 2003
FIRE PROTECTION	Severely Deficient	<ul style="list-style-type: none"> • Volunteer fire department is effectively unfunded – no money to keep firefighters on-call • Inadequate money for firefighter training • Most equipment is old and outdated • Lack of coverage in outlying districts • Most fire hydrants on Reservation are non-functional or have inadequate water pressure • Tribe has no contingency plan for hazardous material spills

PROGRAM AREA	RATING	RATIONALE
HEALTH	Partly Deficient	<ul style="list-style-type: none"> • Reservation population is generally unhealthy – high rates of obesity and diabetes, chemical dependency, accidents, domestic violence • Health services greatly improved with new IHS Health Center • Tribe has many innovative and beneficial programs to address unique health needs of Reservation • Reservation lacks inpatient facilities, specialized care, dialysis center, fully certified emergency room • IHS Funding for contract care is inadequate to meet needs of unhealthy population • Medical transportation resources are inadequate to meet needs of population with low degree of personal mobility • Lack of on-Reservation nursing home for seniors
EDUCATION	Partly Deficient	<ul style="list-style-type: none"> • Parents have high degree of school choice due to presence of well-funded nearby public schools (Colstrip) and tuition-free private school (St. Labre); however, no longer free transportation to Colstrip • Substantial improvements in facilities at Lame Deer School District and Busby • Head Start program is well attended and funded • Reservation has its own community college • Lack of high school facility at Busby • Lame Deer schools are at full capacity • Reservation schools perform poorly – educational achievement is low, dropout rates are high • Not enough qualified Northern Cheyenne teachers

PROGRAM AREA	RATING	RATIONALE
SOCIAL SERVICES	Deficient	<ul style="list-style-type: none"> • Very high rates of poverty on Reservation • Very high rates of domestic violence and child abuse and neglect • Tribe devotes substantial resources of its own to care of its elders; however resources inadequate to meet needs of expanding population • Cash and in-kind assistance programs miss many needy Tribal members due to restrictive eligibility requirements and inadequate funding – households are turning to commodity and food voucher programs as resource of last resort • Child protection and welfare programs are poorly funded and staffed in relation to need – case workers have unrealistically high case loads • Inadequate funding for State court ICWA interventions • Inadequate number of foster parents on Reservation • Inadequate resources to support foster parents
EMPLOYMENT	Severely Deficient	<ul style="list-style-type: none"> • Unemployment a severe and chronic problem on Reservation • Lack of available jobs on or near Reservation • Funding for work experience and job training programs is inadequate – extensive waiting list for participation in programs • Lack of child care a barrier to employment – funding for subsidized child care inadequate – extensive waiting list for services • Lack of resources for prospective Tribal contractors and businesses

PROGRAM AREA	RATING	RATIONALE
RECREATION	Deficient	<ul style="list-style-type: none"> • High opportunity for dispersed outdoor recreation and cultural land uses • Wildlife resources are not intensively managed and may be over-harvested • Lack of developed recreational and cultural facilities
TRANSPORTATION	Deficient	<ul style="list-style-type: none"> • Reservation road network has been substantially improved • Lack of traffic code enforcement • High accident rate on Reservation roads • Lack of public transportation • Isolation from bus, rail and air transportation networks • Low levels of personal mobility

B. Vulnerabilities of Reservation Services and Facilities.

Because most Reservation services and facilities are so inadequate, they may be vulnerable to even small social and economic impacts resulting from off-Reservation development. These vulnerabilities are summarized below.

Housing. The Reservation's housing programs and facilities will be highly vulnerable to off-Reservation development if such development results in any increase in the Reservation population. There is already a severe housing shortage on the Reservation. Further population increases will only exacerbate overcrowding and result in accelerated deterioration of the existing housing stock. Reservation housing programs are woefully inadequate to address the current housing crisis and certainly cannot respond to any added demand for housing resulting from off-Reservation development.

Utilities. The utility system on the Reservation will be vulnerable of off-Reservation development if such development results in any increase in the Reservation population. The water systems in Ashland, Birney and Muddy Cluster and the sewer systems Reservation-wide are inadequate to keep up with current demand and will be further stressed by population increases. Likewise, further population increases will only make worse the Reservation's serious solid waste problem. Although a fee is charged for water and sewer service, these fees do not cover the cost of system upgrades or other infrastructure improvements.

Law Enforcement. The law enforcement system is highly vulnerable to the impacts of off-Reservation development if such development leads to an increase in crime. The law-enforcement system cannot handle any increase in crime and is especially ill-prepared to handle increases in crime involving non-Indians, over which the Reservation's law enforcement system has no jurisdiction.

Fire Protection. The Reservation fire department may be vulnerable to off-Reservation development if this development results in any increase in the frequency of spills of petroleum products and hazardous materials. The Reservation has no contingency plan and is ill-equipped to respond to spill and other emergencies. The Reservation's emergency response program is currently unfunded.

Health. The Reservation's health system is vulnerable to off-Reservation development if it places new unfunded demands on the Reservation's overtaxed health care system. Such demands are possible because the Tribe's ambulance service includes off-Reservation portions of the Tongue River valley in its service area and the Reservation's Health Center is the nearest emergency room to many off-Reservation areas that may be the focus of energy development. Although the Reservation's health care system can bill non-Indians for the services it provides, collection may be a problem especially if energy development companies do not provide health insurance for employees and their families. The Reservation health system will also be vulnerable if off-Reservation development were to increase the rate of chemical dependency, violence, or automobile accidents on the Reservation.

Education. The Reservation's education resources would be vulnerable to off-Reservation energy development if off-Reservation energy workers or their children were to use the Reservation's education resources. While the State provides basic support to the Lane Deer School District on a per-student basis, the District has little tax base and would be vulnerable if enrollments by non-Indians were to increase. The Reservation's community college is also vulnerable to these type of impacts, because the State subsidy for non-Indian students is far below the college's actual cost of providing educational services to these students.

Social Services. The Reservation's social services system would be vulnerable to off-Reservation energy development if the development induces Tribal members to return to the Reservation but does not result in concomitant increases in employment. Although funding for some social programs is based on need or program participation, this is not true for programs such as general assistance, low income energy assistance, and food vouchers. Increases in the number of unemployed may also result in increased rates of child abuse and neglect, further stressing the Tribe's already overtaxed child protection, welfare, and foster care programs.

Employment. The Reservation's employment programs could benefit from off-Reservation energy development if developers hire Tribal members as employees. History has shown, however, that this is likely to occur only if programs are in place that require

developers to institute programs to provide training, work experience, and employment to Tribal members.

Recreation. The Reservation's recreational resources may be vulnerable to off-Reservation energy development if the development results in a decrease in regional fish and wildlife populations or increases the number of non-Indians desiring to exploit these resources. The Tribe lacks the funding to enforce its fish and wildlife laws on the Reservation or even to monitor fish and wildlife abundance.

Transportation. The Reservation's transportation system would be vulnerable to off-Reservation energy development if the development results in increases in traffic on Reservation roads. Although many Reservation roads have been recently improved, increased traffic could contribute to increases in already high accident rates. Additionally, the Tribe has no legal authority to enforce its traffic laws against non-Indian workers and contractors passing through the Reservation.